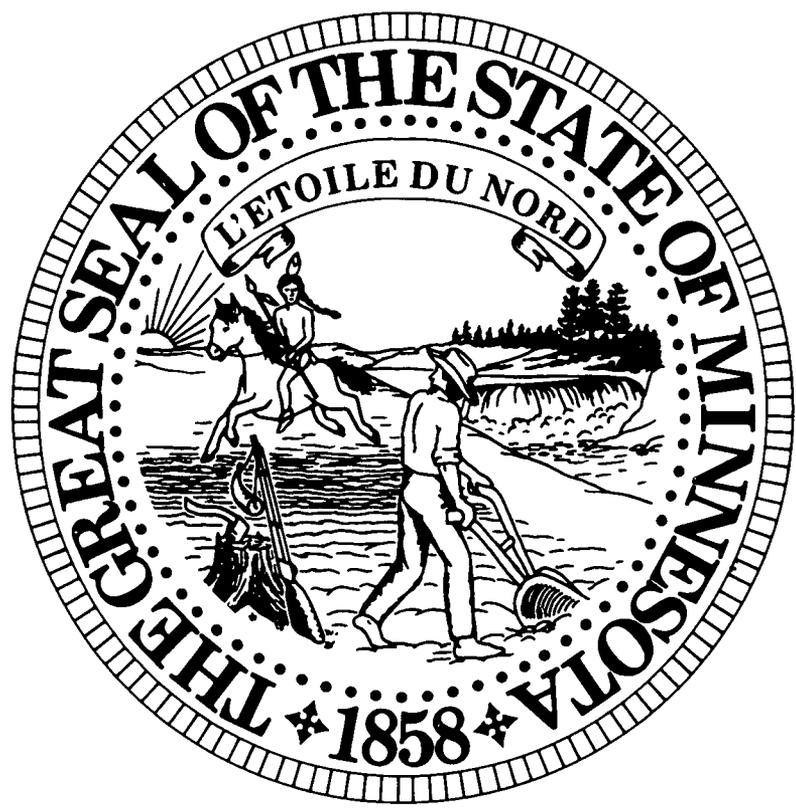


The Minnesota  
**State  
Register**

Department of Administration—Print Communications Division



Rules edition  
Published every Monday  
(Tuesday if Monday is a holiday)

**Tuesday 19 February 1991**  
**Volume 15, Number 34**  
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# State Register

## Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, and announcements.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

### Printing Schedule and Submission Deadlines

Vol. 15 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
34	Monday 4 February	Monday 11 February	Tuesday 19 February
35	Monday 11 February	Friday 15 February	Monday 25 February
36	Friday 15 February	Monday 25 February	Monday 4 March
37	Monday 25 February	Monday 4 March	Monday 11 March

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *State Register Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *State Register* be self-supporting, the following subscription rates have been established: the Monday edition costs \$140.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

Subscribers who do not receive a copy of an issue should notify the *State Register* circulation manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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(612) 296-0504

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Contact: House Information Office  
Room 175 State Office Building, St. Paul, MN 55155  
(612) 296-2146

# Contents

## Minnesota Rules: Amendments & Additions

Issues 28-34 inclusive (issues #1-27 appeared in #27) . . . 1800

### Proposed Rules

#### Natural Resources Department

Waters, watercraft speed limit zones . . . . . 1802

#### Podiatric Medicine Board

Training and licensing . . . . . 1803

#### Pollution Control Agency

Underground storage tanks . . . . . 1811

#### Public Service Department

Minnesota Energy Code . . . . . 1831

### Adopted Rules

#### Electricity Board

Approval of electrical equipment . . . . . 1842

#### Health Department

Public water supplies . . . . . 1842

#### Human Services Department

General assistance . . . . . 1842

#### Labor & Industry Department

Reimbursement of supplementary benefits . . . . . 1846

Targeted industry fund; loggers . . . . . 1847

#### Pollution Control Agency

Lead abatement in soil . . . . . 1847

### Withdrawn Rules

#### Pollution Control Agency

Withdrawing proposed rules on technical standards and corrective action requirements for underground storage tanks . . . . . 1849

#### Public Service Department

Withdrawing proposed rules on Minnesota Energy Code . . . . . 1850

### Commissioners' Orders

#### Natural Resources Department

Order #2405: Reserving, designating and managing certain waters for their primary wildlife use and benefit . . . . . 1850

### Official Notices

#### Minnesota Comprehensive Health Association

Meeting of the Member Appeals Committee . . . . . 1851

#### Ombudsman for Mental Health and Mental Retardation

Meeting notice . . . . . 1851

#### Public Safety Department—Fire Marshal

Opinion sought on flammability standards for seating furniture . . . . . 1852

#### Revenue Department

Opinion sought on rule for sales and use taxation relating to lawn, garden, arborist, tree, bush and shrub services . . . . . 1852

#### Veterinary Medicine Board

Meeting notice . . . . . 1853

#### Water & Soil Resources Board

Meeting notice . . . . . 1853

### State Contracts & Advertised Bids

#### Administration Department

**Materials Management Division:** Commodities and requisitions open for bid . . . . . 1853

**Print Communications Division:** Typesetting, keylining, design, photo seps and prep, printing, binding, labeling and mailing services open for bid . . . 1854

### Professional, Technical & Consulting Contracts

#### Corrections Department—Red Wing Correctional Facility

Various contracts available for medical, instructional and therapeutic services . . . . . 1855

#### Higher Education Coordinating Board

Proposals sought for auditing services . . . . . 1857

#### Minnesota Historical Society

Bids sought for printing, binding and delivery of the society's 1991 Spring/Summer catalog of publications . . . . . 1857

### State Grants

#### Human Services Department

Notice of intent to identify the need for competitive bid process on existing grants . . . . . 1857

#### Pollution Control Agency

Applications accepted for the individual on-site wastewater treatment systems grants program, a set-aside of the independent state grants program for construction of individual on-site wastewater treatment systems . . . . . 1858

**Announcements** . . . . . 1859

# Minnesota Rules: Amendments and Additions

## NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

### Issues 28-34 inclusive (issues #1-27 appeared in #27)

#### Administrative Hearings Office

1400.0250; .0300; .0500; .0800; .0850; .0900; .5100; .5200; .5600; .5700; .5950; .6000; .6700; .7100; .7400; .7500; .8300; .8401; .8510; .8560; .8601; .8604; .8609 (adopted) . . .	1595
1405.0200; .0300; .1400; .1800 (adopted) . . . . .	1595
1400.1300; .5100 s.4,5; .8402; .8613 (repealed) . . . . .	1595
1405.2800 (repealed) . . . . .	1595

#### Agriculture Department

1500.0101; .0201; .0301; .0401; .0501; .0601; .0701; .0801; .0901; .1001; .1101; .1201; .1301; .1401; .1501 (proposed rules withdrawn) . . . . .	1783
1500.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100; .1200; .1300; .1400; .1500; .1600; .1700; .2200; .2300; .2400; .2500; .2600; .2700; .2800; .2900; .3000; .3100; .3200 (proposed repealer withdrawn) . . . . .	1783
1515.2550 (proposed) . . . . .	1533

#### Chiropractic Examiners Board

2500.0100; .1160; .3000; .4000 (proposed) . . . . .	1561
---	------

#### Commerce Department

2890.0080 (proposed) . . . . .	1625
--------------------------------	------

#### Technical Colleges Board

3700.1400; .1405 (adopted) . . . . .	1599
--------------------------------------	------

#### Electricity Board

3800.3590 (proposed) . . . . .	1534
3800.3619; .3620 (adopted) . . . . .	1842

#### Environmental Quality Board

4400.0200; .0300; .0600; .0710; .0720; .0800; .0900; .1000; .1100; .1200; .1210; .1310; .1400; .1500; .2600; .2710; .2720; .2800; .2900; .3000; .3100; .3200; .3210; .3310; .3400; .3500; .3600; .3710; .3800; .3900; .3910; .4000; .4100; .4200; .4500; .4900 (adopted) . . . . .	1598
4400.0700; .1100 s.2; .1300; .2700; .3300; .3600 s.1; .3700; .3900 s.4 (repealed) . . . . .	1598
4410.7000; .7100; .7400; .7500 (adopted) . . . . .	1597
4410.7200; .7300; .7600; .7700; .7800 (repealed) . . . . .	1597

#### Health Department

4620.1450; .1800; .3500 (adopted) . . . . .	1597
4625.0900; .2355; .2655 (adopted) . . . . .	1597
4625.2650 (repealed) . . . . .	1597
4630.1800 (repealed) . . . . .	1597
4630.1801; .4750; .6550 (adopted) . . . . .	1597
4635.0200; .2100 (adopted) . . . . .	1597
4670.4210; .4220; .4230; .4240 (adopted) . . . . .	1699
4685.2800 (proposed) . . . . .	1778
4715.5600 (adopted) . . . . .	1597
4717.0500; .7000-7050 (adopted) . . . . .	1597
4717.6000- .6900 (repealed) . . . . .	1842
4720.0200; .0300; .0350; .0450; .0550; .2300; .3920; .3922; .3925; .3927; .3930; .3932; .3935; .3940; .3942; .3945; .3947; .3950; .3955; .3957; .3960; .3962; .3965; .3970 (adopted) . . . . .	1842
4725.0410 (adopted) . . . . .	1597
4725.0400 (repealed) . . . . .	1597
4727.0300 (repealed) . . . . .	1597
4730.0850 (adopted) . . . . .	1597
4750.0010-.0050 (adopted) . . . . .	1847
4750.0010-.0700 (adopted) . . . . .	1755

#### Social Work Board

4740.0100-.0310 (adopted) . . . . .	1699
4740.2040 (correction) . . . . .	1627
4760.0010-.0300 (proposed) . . . . .	1565

#### Higher Education Coordinating Board

4830.0100; .0200; .0300; .0400; .0500; .0600; .0700; .1550; .1551; .1552; .1553; .1554; .1555; .2100; .2200; .2300; .2500; .2600 (adopted) . . . . .	1780
4850.0010; .0011; .0012; .0014; .0015; .0016; .0017; .0018 (adopted) . . . . .	1780
4830.8000-.8580 (proposed) . . . . .	1576

#### Labor & Industry Department

5205.0010 (proposed) . . . . .	1590
5222.0100; .0200; .0300; .0400; .0500; .0600; .0650; .0700; .0750; .0900 (adopted) . . . . .	1846
5222.0100 s.5,8; .0400 s.3 (repealed) . . . . .	1846

# Minnesota Rules: Amendments & Additions

5222.3000-.3007 (adopted) ..... 1847  
 5226.0100-.0200;.0300 (adopted) ..... 1782

**Marriage and Family Therapy Board**

5300.0100-.0110;.0120;.0130;.0140;.0150;.0160;  
 .0170;.0180;.0190;.0200;.0210;.0230;.0240;.0250;  
 .0260;.0270;.0280;.0290;.0300;.0310;.0320;.0330;  
 .0340;.0350;.0360 (adopted) ..... 1782

**Medical Examiners Board**

5605.0200;5600.0605-.0610 (adopted) ..... 1640

**Natural Resources Department**

6105.0330 (proposed) ..... 1802

**Podiatric Medicine Board**

6900.0010;.0020;.0160;.0200;.0210;.0250;.0300;  
 .0500 (proposed) ..... 1803

**Pollution Control Agency**

7005.6010-.6080 (proposed) ..... 1665  
 7047.0001-.0007 (proposed) ..... 1672  
 7150.0010-.0500 (proposed) ..... 1811  
 7150.0010-.0700 (proposed rules withdrawn) ..... 1849

**Psychology Board**

7200.6100 (adopted) ..... 1542  
 7200.6150 (proposed) ..... 1592

**Public Safety Department**

7409.0100-.0600 (proposed) ..... 1675  
 7503.0100;.0300;.0600;.0800;.0900;.1000;.1200;.1300;  
 .1600;.1700;.1750;.1800;.2000;.2200;.2300;.2400;  
 .2500;.2600;.2700;.2800 (proposed) ..... 1681  
 7520.1000;.1100 (adopted) ..... 1699  
 7535.0100-.0500 (proposed) ..... 1722

**Public Service Department**

7670.0100;.0125;.0130;.0260;.0325;.0400;.0450;.0470;  
 .0480;.0500;.0510;.0550;.0610;.0660;.0670;.0710;  
 .0800;.0850;.1000 (proposed) ..... 1831  
 7670.0110;.0120;.0200;.0210;.0220;.0300;.0310;.0320;  
 .0330;.0340;.0520;.0540;.0600;.0620;.0630;.0640;  
 .0650;.0700;.0720;.0730;.0900;.0910;.0920;.0930;  
 .0940;.0950;.0960;.0970;.1010;.1020;.1030;.1100;  
 .1110 (proposed repealer) ..... 1831  
 7670.0100;.0120;.0125;.0130;.0250;.0325;.0400;.0450;  
 .0470;.0480;.0500;.0510;.0550;.0610;.0660;.0670;  
 .0710;.0800;.0850;.1000 (proposed rules withdrawn) ..... 1850  
 7670.0110;.0200;.0210;.0220;.0300;.0310;.0320;.0330;  
 .0340;.0520;.0540;.0600;.0620;.0630;.0640;.0650;  
 .0700;.0720;.0730;.0900;.0910;.0920;.0930;.0940;  
 .0950;.0960;.0970;.1010;.1020;.1030;.1100;.1110  
 (Proposed repealer withdrawn) ..... 1850

**Public Utilities Commission**

7831.0100-.0800 (adopted) ..... 1599

**Minnesota Racing Commission**

7870.0400;7871.0010;7872.0100;7872.0100;7873.0100;

7873.0110;7873.0185;.0186;.0190;.0192;.0195;.0198;  
 7875.0200;7876.0110;7877.0160;7877.0170;7879.0100;  
 7883.0100;.0130;.0140;7890.0100;7892.0120;7895.0100;  
 .0125;.0275;.0350;7897.0100;.0110;7899.0100  
 (proposed) ..... 1627  
 7897.0110 s.2 (proposed repealer) ..... 1627

**Secretary of State**

8200.6400;.9115 (proposed) ..... 1694  
 8205.1000 (proposed) ..... 1694  
 8210.0200;.9915 (proposed) ..... 1641  
 8250.0360;.1400;.1550 (proposed) ..... 1694

**Teaching Board**

8700.0100;.0200;.0210;.0300;.0400;.0500;.0501;  
 .2000;.2500;.2900;.3200;.3300;.3510;.3900;.4000;  
 .4300;.4400;.4500;.4600;.5300;.6410;.7100;.7300;  
 .7400;.7800;.8010;.8020;.8040;.8110;.8120;.8140;  
 .9010;8750.0060;.0082;.0240;.0500;.0520;.1000;  
 .1240;.1560;.1580;.1700;.1800;.1820;.1840;.1860;  
 .1880;.1900;.1920;.1930;.1940;.1960;.1980;.2000;  
 .2020;.2040;.2060;.2100;.2120;.3010;.3250;.3300;  
 .3350;.3450;.3500;.3800;.3810;.3820;.3830;.3840;  
 .4200;.6200;.8000 (proposed) ..... 1725  
 8700.2900 s.5;.3510 s.7;.4000 s.6;.4100 s.2;.4200 s.2;  
 .4600 s.4.5;.7300 s.3;.7400 s.2 (proposed repealer) ..... 1725

**Pollution Control Agency Waste Management Office**

9220.0800;.0805;.0810;.0815;.0820;.0825;.0830;  
 .0835 (adopted) ..... 1597  
 9220.0800 s.6 (repealed) ..... 1597

**Human Services Department**

9500.1202;.1206;.1211;.1213;.1215;.1219;.1221;  
 .1223;.1225;.1226;.1231;.1232;.1233;.1235;.1237;  
 .1239;.1243;.1245;.1248;.1251;.1254;.1256;.1259;  
 .1261;.1272 (adopted) ..... 1842  
 9500.1205;.1206 s.19.31;.1209;.1210;.1212;.1214;  
 .1216;.1217;.1218;.1220;.1222;.1224;.1226 s.2,3,4;  
 .1227;.1228;.1229;.1230;.1232 s.1,2,3;.1238;.1240;  
 .1242;.1246;.1248 s.1,2;.1252;.1257;.1258;.1260;  
 .1262;.1264;.1266;.1268;.1270;.1300;.1302;.1304;  
 .1306;.1308;.1310;.1312;.1314;.1316;.1318 (repealed) .. 1842  
 9505.2160-.2245 (proposed) ..... 1579  
 9505.1750-.2150 (proposed repealer) ..... 1579  
 9530.6605;.6640;.6650;.7000;.7031 (adopted emergency) .. 627  
 9560.6650 s.3 (emergency repealer) ..... 627  
 9530.6605;.6640;.6650;.7000;.7031 (emergency extended) . 1543  
 9530.6650 s.3 (emergency repealer extended) ..... 1543  
 9530.6655;.7000;.7012;.7015;.7020;.7022;  
 .7024 (adopted) ..... 1540  
 9530.7020 s.3.4 (repealed) ..... 1540  
 9530.6655 (proposed rule withdrawn) ..... 1540  
 9560.0410;.0420;.0430;.0440;.0450;.0460;.0470;  
 .0475;.0480;.0485 (proposed) ..... 1535  
 9575.1500 (adopted) ..... 1697

## Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Department of Natural Resources

### Proposed Permanent Rules Relating to Waters, Watercraft Speed Limit Zones

#### Notice of Intent to Amend a Rule Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Natural Resources intends to adopt an amendment to the above-referenced rule without public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the amendment of these rules is contained in *Minnesota Statutes*, § 86B.205, subd. 9.

All persons have 30 days to submit comments in support of or in opposition to the rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any changes proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Department will proceed pursuant to *Minnesota Statutes*, Section 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Anita Burns Twaroski  
Bureau of Information and Education  
Minnesota Department of Natural Resources  
500 Lafayette Road  
St. Paul, MN 55155-4046

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Anita Burns Twaroski.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of the submission of this material to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Anita Burns Twaroski.

The Department does not anticipate that this rule amendment will have any impact on small business or agricultural land in the area.

Dated: 29 January 1991

Rodney W. Sando  
Commissioner  
MN Department of Natural Resources

**Rules as Proposed****6105.0330 RESTRICTED SPEED ZONES.**

Subpart 1. **Slow speed zone.** No motorboat shall at any time be operated in excess of a slow speed from the dam at Taylors Falls to the sandbars located approximately at mile 31.0.

Subp. 2. **Slow-no wake speed.** No motorboat shall be operated in excess of a slow-no wake speed in the following areas:

A. at the narrows located approximately at mile 28.6, which is 0.4 miles downstream from the Arcola high bridge;

B. between the Coast Guard navigational buoys designating location of the navigation channel from the railroad swing bridge located at approximately mile 17.3 to the south side of the southernmost island in the chain of islands located at approximately mile 16.5;

C. between the Coast Guard navigational buoys designating the Kinnickinnic River delta narrows from approximately mile 6.6 to approximately mile 6.0;

D. at the Prescott Narrows from the north side of U.S. Highway No. 10 bridge located approximately at mile 0.3 to the confluence of the Saint Croix River with the Mississippi River;

E. within 100 feet of shore (including the shores of islands) and of swimmers, from sandbars located approximately at mile 31.0 to the confluence of the Saint Croix River with the Mississippi River; and

F. in that area known as Andersen Bay, located approximately at mile 20.0;

G. from shore to shore in the area known as Afton-Catfish Bar, located approximately at mile 11.4 to 11.8 as measured in the navigational channel, and established by regulatory buoys; and

H. between the dam at Taylors Falls to the confluence of the Saint Croix River with the Mississippi River, whenever the water level reaches 683.0 feet, mean sea level, as measured at the Stillwater gauge.

Subp. 3. **Exception.** Any motorboat designated for law enforcement shall be exempt from this part in circumstances involving emergencies or violation of law.

## Board of Podiatric Medicine

### Proposed Permanent Rules Relating to Training and Licensing

#### Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

##### Explanation of Alternative Notices

The Minnesota Board of Podiatric Medicine (hereinafter "Board") is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* §§ 14.22 to 14.28 (1990). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* § 14.25 (1990), and in order to expedite the rulemaking process should that occur, the Board is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1990). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. Also, the hearing will be cancelled if a sufficient number of people withdraw their requests for a hearing in response to proposed revisions of the proposed rules by the Board. With the comment period closing on March 20, 1991, interested persons may call the Board on March 21, 1991, to ask whether the hearing which is scheduled for March 22, 1991, will be held.

##### Notice of Intent to Adopt Rules Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Board of Podiatric Medicine (hereinafter "Board") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing. The Board has determined that the proposed changes will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* §§ 14.22 to 14.28 (1990).

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

## Proposed Rules

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Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on March 20, 1991. Comment is encouraged. Each comment should identify the portion of the proposed rules being addressed, the reason for the comment, and any change proposed to the rules by the comment. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

In addition to submitting comments, interested persons may request in writing during the 30-day comment period that a hearing be held on the proposed rules. Any person requesting a hearing should state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any changes they want made to the proposed rules. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Board be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by March 20, 1991. If a hearing is required, it will be held in accordance with the provisions of *Minnesota Statutes* §§ 14.131 to 14.20 (1990) and the hearing notice provided below.

Comments or written requests for a public hearing should be submitted to:

Lois E. Mizuno, Executive Director  
Minnesota Board of Podiatric Medicine  
Room 101  
2700 University Avenue West  
St. Paul, Minnesota 55114-1095  
Telephone: (612) 642-0588

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 153.02, 153.16, subs. 1(f) and 3,214.06 and 214.12 (1990).

If adopted, the proposed rules would add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waivers and variances. A copy of the proposed rule is attached and will be published in the *State Register* issue of February 19, 1991.

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed changes has been prepared and may be obtained from the Board by writing or telephoning Lois E. Mizuno at the address or telephone number listed above.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies nor have an impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1990).

It is the position of the Board that it is not subject to *Minnesota Statutes* § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

Upon completion of the proposed rules without a public hearing, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, the rules as adopted, and a statement explaining any differences between the rules as proposed and as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the amendments as adopted should submit a written request to Lois E. Mizuno at the address listed above.

### **Notice of Intent to Adopt Rules with a Public Hearing If 25 or More Persons Request a Hearing**

**PLEASE NOTE that if 25 or more persons submit written requests for a public hearing with respect to the above-captioned rules within the 30-day comment period pursuant to the notice given in part II above, a hearing will be held on March 22, 1991, in accordance with the following notice of public hearing.**

**NOTICE IS HEREBY GIVEN** that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes* § 14.131 to 14.20 (1990), in Room 41 (Conference Room A), Lower Level, Colonial Office Park Building, 2700 University Avenue West, St. Paul, Minnesota, on Friday, March 22, 1991, commencing at 1:30 p.m.

All interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Administrative Law Judge, Office of Administrative

Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608. Unless a longer period not to exceed 20 calendar days is ordered by the administrative law judge at the hearing, the hearing record will remain open for the inclusion of written material for five working days after the hearing ends. Written material received during this period will be available for review at the Office of Administrative Hearings. The Board and interested persons may respond in writing within three business days after the submission period ends to any new information submitted. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1990) and by *Minnesota Rules* pts. 1400.0200 to 1400.1200 (1989). Questions about procedure may be directed to the administrative law judge.

If adopted, the rules would add and revise definitions, amend certain licensure requirements, amend certain temporary permit provisions, change the license renewal cycle from 12 to 24 months, adjust certain fees, conform the continuing education cycle from 15 hours annually to 30 hours every two years, and add provisions relating to waivers and variances. A free copy of the proposed rules is attached and will be published in the *State Register* issue of February 19, 1991.

The statutory authority of the Board to adopt the proposed rules is contained in *Minnesota Statutes* §§ 153.02, 153.16, subs. 1(f) and 3, 214.06 and 214.12 (1990).

The proposed rules may be modified as a result of the rule hearing process. Those who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

*Minnesota Statutes* ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone: (612) 296-5148.

**NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS** is now available for review at the Board and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the Board or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Please note that any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rules with the Secretary of State.

Promulgation of these proposed rules will not result in the expenditure of public monies by local public bodies nor have any impact on agricultural land; therefore, no further information need be provided under *Minnesota Statutes* § 14.11 (1990).

It is the position of the Board that it is not subject to *Minnesota Statutes* § 14.115 (1990) regarding small business considerations in rulemaking. The basis for this position, and the Board's evaluation of the applicability of the methods contained in *Minnesota Statutes* § 14.115, subd. 2 (1990) for reducing the impact of the proposed rules should it be determined that the Board is governed by section 14.115, are addressed in the statement of need and reasonableness.

**Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing in Response to the Notice Given in Part II Above. Also, the Hearing Will Be Cancelled If a Sufficient Number of People Withdraw Their Request for a Hearing in Response to Proposed Revisions of the Proposed Rules By the Board**

To be informed whether the hearing notice in Part III above will be held, please call the Board before March 15, 1991, and leave

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## Proposed Rules

your name, address, and telephone number. You will be notified on March 21, 1991, if the hearing has been cancelled. You may also call the Board on March 21, 1991, to find out whether the hearing scheduled for March 22, 1991, will be held.

Dated: 4 February 1991

Lois E. Mizuno  
Executive Director

### Rules as Proposed

#### 6900.0010 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 1a. Acceptable graduate training. "Acceptable graduate training" means at least 12 consecutive months of postgraduate training in a clinical residency, preceptorship, or other graduate training as described in part 6900.0020, subparts 5, 6, 7, or 8.

Subp. 2. and 3. [See repealer.]

[For text of subps 4 and 5, see M.R.]

Subp. 6. Suspend a license. "Suspend a license" means to discontinue a licensee's podiatrist's right to practice for a definite or indefinite time until specified conditions are met.

[For text of subp 7, see M.R.]

Subp. 8. Initial licensure period. For a license issued after the effective date of parts 6900.0100 to 6900.0500, "initial licensure period" means the period which begins on the date licensure is granted and ends on June 30 of the first fiscal year following the fiscal year in which the license is granted.

#### 6900.0020 LICENSURE REQUIREMENTS.

[For text of subps 1 to 3, see M.R.]

Subp. 4. Graduate training. Applicants graduating in 1987 and thereafter from a podiatric medical school must present evidence of satisfactory completion of a clinical residency, preceptorship, or other acceptable graduate training as required in *Minnesota Statutes*, section 453.16, subdivision 1, paragraph (d), and described in subparts 5, 6, and 7 or 8.

Subp. 5. Clinical residency. An acceptable clinical residency must be at least 12 consecutive months in length and be approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association. A clinical residency is a formal, structured postdoctoral training program sponsored by and conducted in an accredited institution such as a hospital or ambulatory health care facility or conducted by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association. The residency must:

A. provide the podiatric medical graduate with a well-rounded exposure in preparation for management of podiatric conditions and diseases as they are related to systemic diseases;

B. develop the podiatric medical graduate in the art of preventing and controlling podiatric conditions and diseases and in the promotion of foot health principally through mechanical and rehabilitative methods;

C. provide the podiatric medical graduate with clinical experience necessary to refine competency in the podiatric medical and surgical care of the foot as defined by the statutory scope of practice; or

D. provide the podiatric medical graduate with clinical experience necessary to become competent in the full scope of advanced podiatric medicine and surgery.

Subp. 6. Preceptorship. An acceptable preceptorship must:

A. consist of a minimum of 12 consecutive months of study;

B. operate under the control and supervision of an accredited college of podiatric medicine; and

C. have written objectives appropriate to all training aspects of the program. A preceptorship is a formal, structured postdoctoral training program, with written objectives appropriate to all aspects of the program and a written evaluation process, conducted by a podiatrist primarily in an office-based setting and controlled and supervised by a college of podiatric medicine accredited by the Council on Podiatric Medical Education or the American Podiatric Medical Association. The residency must provide the recent podiatric medical graduate sufficient experiences to have further patient care exposure, to improve clinical management and communication skills, and to obtain increased self confidence.

Subp. 7. Preceptor requirements. The preceptor must:

A. provide training in the care of children and adults that offers experience as defined by the statutory scope of practice including drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:

- (1) nail;
- (2) digital;
- (3) soft tissue;
- (4) forefoot;
- (5) metatarsal;
- (6) midfoot; and
- (7) rearfoot or ankle.

~~The care of children and adults must be included.~~

B. hold a clinical appointment at a college podiatric medical school or be a member of the teaching staff of a hospital sponsoring a residency program;

C. have a hospital staff appointment with podiatric surgical privileges; however, the granting of staff privileges is solely within the discretion of individual institutions; and

D. not have been the subject of disciplinary action concerning professional conduct or practice.

Subp. 8. **Other graduate training.** Other ~~acceptable~~ graduate training must meet the following standards: requirements of items A to D and of subpart 7, items A and D.

A. ~~The program must be 12 consecutive months of formal, structured study started after graduation from a college of podiatric medicine, have written objectives appropriate to all training aspects of the program, and have a written evaluation process.~~

~~B. Experience within the statutory scope of practice must include drug therapy, radiology, local anesthesia, analgesia, biomechanics, physical medicine, rehabilitation, and the following surgeries:~~

- ~~(1) nail;~~
- ~~(2) digital;~~
- ~~(3) soft tissue;~~
- ~~(4) forefoot;~~
- ~~(5) metatarsal;~~
- ~~(6) midfoot; and~~
- ~~(7) rearfoot or ankle.~~

~~The care of children and adults must be included.~~

~~C. A licensed podiatrist must be designated as the unlicensed podiatrist's supervisor and assume full podiatric responsibility for patient services provided by the unlicensed podiatrist. The supervisor must not have been the subject of disciplinary action concerning professional conduct or practice.~~

~~D. B. The supervisor must obtain the approval of the board for the proposed graduate training, including its written goals and objectives, before the training begins.~~

~~C. The supervisor must have a hospital appointment with surgical privileges or have a written arrangement for the unlicensed podiatrist to have at least four months experience with a licensed podiatrist who holds a hospital appointment with surgical privileges. However, the granting of staff privileges is solely within the discretion of individual institutions.~~

~~E. D. The supervisor shall instruct and direct the unlicensed podiatrist in his or her the podiatrist's duties, oversee and check the work, and provide general direction to the unlicensed podiatrist. The unlicensed podiatrist and supervising podiatrist shall directions, and comply with at least the following criteria:~~

(1) ~~A~~ the supervisor shall review and evaluate patient services provided by the unlicensed podiatrist on a daily basis from information in patient charts or records. Review may either be in person or by telecommunication;

(2) ~~A~~ the supervisor shall be on site at facilities staffed by an unlicensed podiatrist;

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## Proposed Rules

(3) one of the licensed podiatrists referred to in item ~~D~~ C must be present during the performance of surgical treatment by the unlicensed podiatrist; and

(4) ~~A supervising podiatrist~~ the supervisor may not supervise more than two unlicensed podiatrists at any one time.

Subp. 9. **Personal appearance.** The applicant shall be scheduled for a personal appearance before one or more members of the board or the executive director when the other requirements for licensure have been met. The board may waive ~~require~~ the personal appearance if one or more board members has personal knowledge of the accuracy of the applicant's application applicant to respond satisfactorily to questions regarding ethics of practice.

Subp. 10. **License in another state other states.** If an applicant is licensed in ~~another state~~ one or more states other than Minnesota, the applicant must cause a form supplied by the board to be submitted from the board of podiatric medicine in the state of original licensure and ~~the other states~~ each state in which a license was held during the five years immediately preceding application.

### 6900.0160 TEMPORARY PERMIT.

Subpart 1. **Prerequisites.** An applicant for a temporary permit to practice podiatric medicine must submit a complete, acceptable application for a Minnesota license and temporary permit and pay the required fees fee for a temporary permit. The clinical examination and personal interview may be completed during the permit period.

The applicant must submit written evidence that the applicant has been accepted as a resident, preceptee, or graduate trainee in a program and that the program meets the standards in part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 2. **Term of permit.** ~~The A granted permit is issued valid for a the period not to exceed of graduate training of 12 months of training that must occur within 18 consecutive months beginning with the first day of graduate training.~~ A permit may be reissued once to a qualified if the applicant submits acceptable evidence that the training was interrupted by circumstances beyond the control of the applicant and that the sponsor of the program agrees to the extension. A permit expires when an applicant is licensed, or must be

Subp. 2a. Revocation. The permit is revoked if an applicant has engaged in conduct that constitutes grounds for denial of a license licensure or disciplinary action, discontinues training, or moves out of Minnesota.

Subp. 3. **Scope of practice.** The scope of practice of the permit holder is limited to the performance of podiatric medicine within the structure of the ~~residency, preceptorship, or other~~ acceptable graduate training program within which the permit holder is enrolled.

### 6900.0200 LICENSE RENEWAL.

Subpart 1. **Active status.** The license renewal term is ~~12~~ 24 months beginning on July 1 and ending on June 30. Applications received and postmarked after June 30 in the year due will be returned for addition of the late renewal fee. The term of renewal begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even number. The July 1, 1991, renewal term for a licensee who renews in even-numbered years shall end June 30, 1992, and the renewal fee and continuing education hours shall be half the amount required for a 24-month renewal period. For the first renewal period following the initial licensure period, the fee for renewal of license is that fraction of \$450, to the nearest dollar, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.

An applicant for license renewal must submit to the board:

A. an application form, renewal fee, and, if applicable, the late renewal fee; The application form must provide a place for the renewal applicant's signature and ~~must~~ solicit information including the applicant's office address, and other information that may be reasonably requested by the board;

B. evidence of participation in approved continuing education programs as described in part 6900.0300; and

C. other evidence as the board may reasonably require.

[For text of subp 2, see M.R.]

Subp. 3. **Notice.** Any time after July 1 of the applicable year, the board will send to the last address on file with the board, a notice to licensees who have not applied for license renewal. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and ~~the information required~~ about continuing education that must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by submitting the applying for license renewal application and applicable fees and information required about continuing education as provided in subpart 1 or by notifying the board that the licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

Subp. 4. **Result.** If the application for renewal, including required information about continuing education and the applicable renewal and late fees as provided in subpart 1 or notice of voluntary termination, is not received by the board by the date specified

in the notice, the license will expire and the licensee's right to practice terminates on the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

[For text of subp 5, see M.R.]

Subp. 6. ~~Contested case proceeding~~ **Disciplinary action.** The board, in lieu of the ~~process procedure~~ in subpart 3, may initiate a ~~contested case hearing to revoke or suspend a license~~ **disciplinary action against any licensee** for failure to submit fees ~~and or provide documentation of completion of~~ continuing education information ~~requested on the renewal application at the time it initiates disciplinary proceedings against the licensee for requirements, and may add such failure to~~ other grounds specified in *Minnesota Statutes*, sections 153.01 to 153.25 in ~~any contested case proceeding initiated by the board against the licensee on the other grounds.~~

Subp. 7. **Name and address change.** A podiatrist who has changed names ~~shall~~ **must** notify the board in writing as soon as possible and request a revised renewal certificate. The board may require substantiation of the name change by requiring official documentation.

A podiatrist ~~shall~~ **must** maintain with the board a correct mailing address to receive board communications and notices. A podiatrist who has changed addresses ~~shall~~ **must** notify the board in writing as soon as possible. Placing a notice in first class United States mail, postage prepaid and addressed to the licensee at the licensee's last known address, constitutes valid service.

#### **6900.0210 REINSTATEMENT OF LICENSE.**

Subpart 1. **Requirements.** Upon ~~completing a podiatrist's compliance with the requirements in this part, the applicant's podiatrist's~~ license must be reinstated. The podiatrist ~~desiring the~~ **requesting** reinstatement of a license shall submit the following materials:

A. an application form; ~~license renewal and relicensure fee; and, if the request is received within 12 months of a previous license expiration, the late renewal fee;~~

[For text of items B to E, see M.R.]

Subp. 2. **Revoked or suspended license.** No license that has been suspended or revoked by the board will be reinstated unless the ~~applicant for reinstatement former licensee~~ provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the ~~applicant former licensee~~ has successfully completed the requirements. The board may require the licensee to pay the costs of the proceedings resulting in the suspension or revocation of a license under its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay the costs of the proceedings resulting in the disciplinary action.

[For text of subp 3, see M.R.]

#### **6900.0250 FEES.**

Subpart 1. **Amounts.** Fees for podiatrists are as follows:

- A. licensure, ~~\$200~~ **\$450**;
- B. ~~reexamination by the board under an original application for licensure, \$200;~~
- ~~C.~~ **C.** renewal of a license, ~~\$225~~ **\$450**;
- ~~D.~~ **C.** late renewal of a license, an additional ~~\$50~~ **\$100**;
- ~~E.~~ **D.** temporary permit, \$200; ~~and~~
- ~~F.~~ **E.** replacement of an original license document or renewal certificate, \$10; ~~and~~
- F.** relicensure following expiration of license, \$550.

Subp. 2. **Requirements.** Fees must be paid in United States money; ~~A personal check is not acceptable for payment of a license or temporary permit. Fees and~~ are not refundable.

#### **6900.0300 CONTINUING EDUCATION.**

Subpart 1. **Requirement.** Every podiatrist licensed to practice in Minnesota shall obtain ~~45~~ **30** clock hours of continuing education in each ~~two-year cycle of license renewal period.~~ **The number of continuing education hours required during the initial licensure period is that fraction of 30 hours, to the nearest whole hour, that is represented by the ratio of the number of days the license is held in the initial licensure period to 730 days.**

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## Proposed Rules

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Subp. 2. **Obtaining continuing education hours.** Continuing education hours shall be obtained in the following manner:

- A. attendance at educational programs approved by the board under subpart 3;
- B. attendance at hospital staff meetings (no more than three hours of hospital staff meetings may be used for license renewal each year); or
- C. participation in a ~~clinical residency, preceptorship, or acceptable~~ graduate training that meets the requirements of part 6900.0020, subpart 4, 5, 6, or 7.

Subp. 3. **Requirements of program approval.** ~~Approval of~~ Each continuing education program ~~that the licensee desires to use~~ used to meet the license renewal requirements ~~should~~ must be approved by the board before ~~registration for the program but must be approved by the board before license renewal is granted~~ the program is accepted as meeting requirements of this part.

In order for a continuing education program to be approved by the board, the program must meet the following criteria:

- A. The content must be directly related to the practice of podiatric medicine as defined in *Minnesota Statutes*, section 153.01, subdivision 2. Subjects such as practice management, ~~risk management~~, or those not of a scientific nature are not acceptable.
- B. The speaker must be a licensed podiatrist, other credentialed health care professional, or person especially qualified to address the subject.
- C. The sponsor must provide the attendee a written statement of attendance that includes the name and dates of the program, the name and address of the sponsor, the number of continuing education clock hours granted by the sponsor and approved by the board if prior approval has been sought, the name of the attendee and a signature of the sponsor or designee, or upon completion of the program, the sponsor must send the board a list of attendees.

Subp. 3a. **Procedure for program approval.** Either the sponsor of a continuing education program or a podiatrist licensee may submit the program for approval by the board.

The following information about the program is required:

- A. name and address of the program sponsor;
- B. dates and times of the program;
- C. subject or content matter of each item on the program together with the amount of time devoted to the subject;
- D. name of and identifying information about the speakers or instructors; and
- E. assurance that a written statement of attendance will be given to the podiatrist or that a list of attendees will be sent to the board.

The board shall approve each continuing education program for a specific number of clock hours of continuing education. One clock hour is 60 minutes. Partial hours will not be granted. Lunch breaks, rest periods, greetings, and other noneducational time will not be included.

Subp. 4. **Proof of attendance.** Proof of attendance at continuing education programs meeting the requirement of this part shall be submitted to the board ~~at the time of license~~ within the renewal period in which it was attended in the form of a certificate, descriptive receipt, or affidavit.

Subp. 5. [See repealer.]

### **6900.0500 WAIVERS AND VARIANCES.**

**Subpart 1. Waivers; application.** A licensee or applicant for licensure may petition the board for a time-limited waiver of any rule except for any part of a rule which incorporates a statutory requirement. The waiver shall be granted if:

- A. the rule in question does not address a problem of significance to the public in relation to the practice or application of the petitioner;
- B. adherence to the rule would impose an undue burden on the petitioner; and
- C. the granting of a waiver will not adversely affect the public welfare.

**Subp. 2. Waivers; renewal, reporting, and revocation.** A waiver shall be renewed upon reapplication according to the procedure described in subpart 1 if the circumstances justifying its granting continue to exist. Any petitioner who is granted a waiver shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver shall be revoked if a material change in the circumstances which justify its granting occurs.

**Subp. 3. Variances; application.** A licensee or applicant may petition the board for a time-limited variance from any rule except for any part of a rule which incorporates a statutory requirement. A variance shall be granted if the petitioner specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:

A. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;

B. adherence to the rule would impose an undue burden on the petitioner; and

C. the granting of the variance will not adversely affect the public welfare.

Subp. 4. Variances; compliance. Any petitioner who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.

Subp. 5. Variance; renewal, reporting, and revocation. A variance shall be renewed upon reapplication according to the procedure described in subpart 3 if the circumstances justifying its granting continue to exist. Any petitioner who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance shall be revoked if a material change in the circumstances which justify its granting occurs.

Subp. 6. Burden of proof. The burden of proof is upon the petitioner to demonstrate to the board that the requirements in subparts 1 and 3 have been met.

Subp. 7. Statement of reasons. The minutes of any meeting at which a waiver or variance is granted, denied, renewed, or revoked shall include the reason for the action.

**REPEALER.** Minnesota Rules, parts 6900.0010, subparts 2 and 3; 6900.0030; and 6900.0300, subpart 5, are repealed.

## **Pollution Control Agency**

### **Proposed Permanent Rules Relating to Underground Storage Tanks**

#### **Notice of Intent to Adopt Rules Without a Public Hearing**

**NOTICE IS HEREBY GIVEN** that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1990). The MPCA's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.49 (1990).

This is the second notice provided by the MPCA regarding the proposed adoption of these rules. The first notice was published in the *State Register* on July 30, 1990, (15 S. R. 264). The MPCA has issued an Order Withdrawing the Proposed Rules Relating to Technical Standards and Corrective Action Requirements for Underground Storage Tanks, *Minnesota Rules* pts. 7150.0010 through 7150.0700 as originally noticed, under the Withdrawn Rules Chapter in this *State Register*. The MPCA is renoticing *Minnesota Rules* pts. 7150.0010 through 7150.0350 and pts. 7150.0600 through 7150.0700 as originally noticed as Proposed Rules Relating to Technical Standards for Underground Storage Tanks, *Minnesota Rules* pts. 7150.0010 through 7150.0500. Copies of last July's notice can be obtained from county libraries or from the Minnesota Bookstore (612/297-3000).

As a result of comments received during the first notice period, the MPCA has met with representatives of the affected parties and several issues relating to the technical standards portion of the rule as originally noticed were resolved and have been incorporated as minor changes to the proposed rule as published.

The MPCA believes that, although amended corrective action criteria could probably be added to the proposed rules as originally noticed, additional time will be required to develop the necessary language. In addition, the modifications could be construed as a substantial change, and adoption of the technical standards could be significantly delayed. Corrective action rules will be proposed at a later time.

All persons have until 4:30 p.m. on March 21, 1991, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing must state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 through 14.20 (1990).

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## Proposed Rules

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Comments or written requests for a public hearing must be submitted to:

Thomas P. Clark  
Minnesota Pollution Control Agency  
Tanks and Spills Section  
Hazardous Waste Division  
520 Lafayette Road North  
St. Paul, Minnesota 55155  
612/643-3409

The proposed rules may be modified if the modifications are supported by data and views submitted to the MPCA and do not result in a substantial change in the proposed rules as noticed.

The proposed rules, if adopted, will establish technical standards and safeguards necessary to protect human health, safety and the environment and include the following areas: 1) design, construction, installation and notification of underground storage tank systems; 2) general operating requirements; 3) release detection requirements; and 4) closure of underground storage tank systems. Regulated substances include petroleum products as well as certain hazardous materials. One free copy of the rules is available upon request from Tom Clark at the address and telephone number stated above.

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available at the above address.

**YOU ARE HEREBY ADVISED**, pursuant to *Minnesota Statutes* § 13.115 (1990), "Small Business Considerations in Rulemaking," that the proposed rules will have a minimal effect on small businesses. In drafting the proposed rules, the MPCA considered the potential impact on small businesses. A discussion of these considerations can be found in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to Tom Clark of the Tanks and Spills Section at the above address.

Charles W. Williams  
Commissioner

### Rules as Proposed (all new material)

#### PROGRAM SCOPE AND INTERIM STANDARDS

##### 7150.0010 APPLICABILITY.

Subpart 1. **Scope.** The requirements of this chapter apply to all owners and operators of an underground storage tank system as defined in part 7150.0030, except as otherwise provided in this subpart and subparts 2 and 3. Any underground storage tank system listed in subpart 3 must meet the requirements of part 7150.0020.

Subp. 2. **Exclusions.** The following underground storage tank systems are excluded from the requirements of this chapter:

A. an underground storage tank system holding hazardous wastes listed or identified under chapter 7045 or Code of Federal Regulations, title 40, part 261, or a mixture of such hazardous waste and other regulated substances;

B. a wastewater treatment tank system that is part of a wastewater treatment facility regulated under United States Code, title 33, section 1317 or 1342;

C. equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

D. an underground storage tank system with a capacity of 110 gallons or less;

E. an underground storage tank system that contains a de minimus concentration of regulated substances;

F. an emergency spill or overflow containment underground storage tank system that is expeditiously emptied after use;

G. a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

H. a tank of 1,100 gallons or less capacity used exclusively for storing heating oil for consumptive use on the premises where stored;

I. a septic tank;

J. a pipeline facility, including gathering lines, regulated under United States Code, title 49, chapter 24 or 29;

K. a surface impoundment, pit, pond, or lagoon;

L. a storm water or wastewater collection system;

M. a flow-through process tank; and

N. a storage tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel if the storage tank is located upon or above the surface of the floor.

Subp. 3. **Deferrals.** Parts 7150.0100 to 7150.0440 do not apply to any of the following types of underground storage tank systems:

A. wastewater treatment tank systems;

B. underground storage tank systems containing radioactive material that are regulated under the Atomic Energy Act of 1954, United States Code, title 42, sections 2011 to 2296;

C. an underground storage tank system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under Code of Federal Regulations, title 10, part 50, Appendix A;

D. airport hydrant fuel distribution systems; and

E. underground storage tank systems with field-constructed tanks.

Subp. 4. **Release detection deferrals.** Parts 7150.0300 to 7150.0350 do not apply to an underground storage tank system that stores fuel solely for use by emergency power generators.

Subp. 5. **Heating oil underground storage tank deferrals.** Parts 7150.0100 to 7150.0440, except 7150.0120, subparts 2 and 6, do not apply to an underground storage tank system of over 1,100 gallons capacity used exclusively for storing heating oil for consumptive use on the premises where stored.

#### **7150.0020 INTERIM STANDARDS FOR DEFERRED UNDERGROUND STORAGE TANK SYSTEMS.**

Subpart 1. **Interim standards.** No person may install an underground storage tank system listed in part 7150.0010, subparts 3 to 5, for the purpose of storing regulated substances unless the underground storage tank system, whether of single- or double-wall construction:

A. is installed according to requirements of the American Petroleum Institute Bulletin 1615 to the extent applicable, and all manufacturer's recommendations;

B. will prevent releases due to corrosion or structural failure for the operational life of the underground storage tank system;

C. is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

D. is constructed or lined with material that is compatible with the stored substance.

Subp. 2. **Systems without corrosion protection.** Notwithstanding subpart 1, an underground storage tank system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this subpart for the remaining life of the tank. The determination required by this subpart must be in accordance with the National Association of Corrosion Engineers, Standard RP-02-85.

#### **7150.0030 DEFINITIONS.**

Subpart 1. **Scope.** For the purposes of this chapter, the following terms and abbreviations have the meanings given them. Terms that are not specifically defined have the meanings given them in *Minnesota Statutes*, sections 115.01, 115C.02, and 116.46.

Subp. 2. **Aboveground release.** "Aboveground release" means a release to the surface of the land or to surface water, including, but not limited to, releases from the aboveground part of an underground storage tank system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank system.

Subp. 3. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 4. **Appurtenances.** "Appurtenances" means devices such as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to or from an underground storage tank.

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## Proposed Rules

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Subp. 5. **Belowground release.** "Belowground release" means a release to the subsurface of the land and to groundwater, including, but not limited to, releases from the belowground parts of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

Subp. 6. **Beneath the surface of the ground.** "Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

Subp. 7. **Cathodic protection.** "Cathodic protection" means using a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

Subp. 8. **Cathodic protection tester.** "Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

Subp. 9. **Change in service.** "Change in service" means a permanent removal from service or a change in the reported uses, contents, or ownership of an underground storage tank under *Minnesota Statutes*, section 116.48, subdivision 3, or an upgrade under this chapter.

Subp. 10. **Closure or removal.** "Closure" or "removal" means permanently taking an underground storage tank out of service by either closing it in place, removing it from the ground, or converting it to store a nonregulated substance as required by this chapter.

Subp. 11. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

Subp. 12. **Compatible.** "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the underground storage tank.

Subp. 13. **Connected piping.** "Connected piping" means underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to an individual underground storage tank system, the piping that joins two underground storage tank systems should be allocated equally between them.

Subp. 14. **Consumptive use.** "Consumptive use," with respect to heating oil, means consumed on the premises.

Subp. 15. **Corrosion expert.** "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. The person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

Subp. 16. **Dielectric material.** "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate underground storage tank systems from the surrounding soils. Dielectric bushings are used to electrically isolate parts of the underground storage tank system, for example, tank from piping.

Subp. 17. **Electrical equipment.** "Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

Subp. 18. **Excavation zone.** "Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the underground storage tank system is placed at the time of installation.

Subp. 19. **Existing tank system.** "Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation began on or before December 22, 1988. However, a tank system containing hazardous materials that is not regulated under Code of Federal Regulations, title 40, part 280, is considered an existing tank system if installation began on or before (insert 90 days after date of adoption). Installation is considered to have begun if:

A. the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and

B. either a continuous on-site physical construction or installation program has begun, or the owner or operator has entered into contractual obligations, that cannot be canceled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.

Subp. 20. **Farm tank.** "Farm tank" means a tank located on a tract of land devoted to the production of crops, raising animals, including fish, range land, nurseries with growing operations, and associated residences and improvements. A farm tank must be located on the farm property.

Subp. 21. **Flow-through process tank.** "Flow-through process tank" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

Subp. 22. **Free product.** "Free product" means a regulated substance that is present as a nonaqueous phase liquid, for example, liquid not dissolved in water.

Subp. 23. **Gathering lines.** "Gathering lines" means a pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

Subp. 24. **Hazardous material.** "Hazardous material" means:

A. a substance listed in Code of Federal Regulations, title 49, section 172.101, including petroleum under subpart 38, item C, but not including:

(1) a hazardous waste listed or identified under chapter 7045 or Code of Federal Regulations, title 40, part 261;

(2) petroleum under subpart 38, item A, B, or D; or

(3) a substance that is not liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute; or

B. any mixture of substances identified in item A and petroleum, unless the amount of the substance identified in item A is de minimus.

Subp. 25. **Hazardous material underground storage tank system.** "Hazardous material underground storage tank system" means an underground storage tank system that is used to contain a hazardous material.

Subp. 26. **Heating oil.** "Heating oil" means petroleum that is Nos. 1, 2, and 4 light, No. 4 heavy, No. 5 light, No. 5 heavy, and No. 6 technical grades of fuel oil; other residual fuel oils, including Navy Special Fuel Oil and Bunker C; and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

Subp. 27. **Hydraulic lift tank.** "Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

Subp. 28. **Maintenance.** "Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing a regulated substance.

Subp. 29. **Motor fuel.** "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or 2 diesel fuel, or any grade of gasohol, and is typically used in the operation of a motor engine.

Subp. 30. **New tank system.** "New tank system" means a tank system that is or will be used to contain an accumulation of regulated substances and which is not an existing tank system as defined in subpart 19.

Subp. 31. **Noncommercial purposes.** "Noncommercial purposes," with respect to motor fuel, means not for resale.

Subp. 32. **On the premises where stored.** "On the premises where stored," with respect to heating oil, means underground storage tank systems located on the same property where the stored heating oil is used.

Subp. 33. **Operational life.** "Operational life" means the period beginning when installation of the tank system has begun until the time the tank system is properly closed under parts 7150.0400 to 7150.0440.

Subp. 34. **Operator.** "Operator" means a person in control of or having responsibility for the daily operation of the underground storage tank system or a person who was in control of or had responsibility for the daily operation of the tank immediately before discontinuation of its use.

Operator also means a person who is responsible under *Minnesota Statutes*, section 115C.021, for a release from an underground storage tank containing petroleum, or a person who is responsible under *Minnesota Statutes*, section 115B.03, for a release from an underground storage tank containing a hazardous material. Operator does not include a person who operates a tank if the tank is not regulated by this chapter.

Subp. 35. **Overfill release.** "Overfill release" means a release occurring when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

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## Proposed Rules

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Subp. 36. **Owner.** "Owner" means a person who holds title to, controls or possesses an interest in an underground storage tank, and a person who held title to, controlled, or possessed an interest in the tank immediately before discontinuation of its use.

Owner also means a person who is responsible under *Minnesota Statutes*, section 115C.021, for a release from an underground storage tank containing petroleum, or a person who is responsible under *Minnesota Statutes*, section 115B.03, for a release from an underground storage tank containing a hazardous material.

Owner does not include a person who owns a tank if the tank is not regulated by this chapter and does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.

Subp. 37. **Person.** "Person" means an individual, partnership, association, public or private corporation, or other legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Minnesota Pollution Control Agency.

Subp. 38. **Petroleum.** "Petroleum" means one of the following substances:

A. gasoline and fuel oil as defined in *Minnesota Statutes*, section 296.01, subdivisions 3 and 4;

B. crude oil or a fraction of crude oil that is liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute;

C. constituents of gasoline and fuel oil under item A and constituents of crude oil under item B; or

D. petroleum-based substances that are comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, and used oils.

Subp. 39. **Petroleum underground storage tank system.** "Petroleum underground storage tank system" means an underground storage tank system that is used to contain petroleum or a mixture of petroleum with de minimus quantities of hazardous materials.

Subp. 40. **Pipe or piping.** "Pipe" or "piping" means a hollow cylinder or tubular conduit for conveying a regulated substance from one point to another within an underground storage tank system.

Subp. 41. **Pipeline facilities.** "Pipeline facilities," including gathering lines, means new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

Subp. 42. **Regulated substance.** "Regulated substance" means a hazardous material or petroleum.

Subp. 43. **Release.** "Release" means a spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into the environment including spills associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank system. "Release" does not include discharges or designed venting allowed under agency rules.

Subp. 44. **Release detection.** "Release detection" means determining whether a release of a regulated substance has occurred from the underground storage tank system into the environment or into the interstitial space between the underground storage tank system and its secondary barrier or secondary containment around it.

Subp. 45. **Repair.** "Repair" means the correction, restoration, modification, or upgrading of a tank system, including, but not limited to, the addition of cathodic protection systems, the replacement of piping, valves, fill pipes or vents, the lining of a tank through the application of materials such as epoxy resins, or any other similar activities that may affect the integrity of the tank system.

Subp. 46. **Residential tank.** "Residential tank" means a tank located on property used primarily for dwelling purposes.

Subp. 47. **Septic tank.** "Septic tank" means a watertight, covered receptacle designed to receive or process through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from the receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

Subp. 48. **Storm water or wastewater collection system.** "Storm water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment, except where incidental to conveyance.

Subp. 49. **Surface impoundment.** "Surface impoundment" means a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, that is not an injection well.

Subp. 50. **Tank.** "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials, such as concrete, steel, and plastic, that provide structural support.

Subp. 51. **Tank system.** "Tank system" has the same meaning as underground storage tank and underground storage tank system.

Subp. 52. **Underground area.** "Underground area" means an underground room such as a basement, cellar, shaft, or vault providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

Subp. 53. **Underground release.** "Underground release" means a belowground release.

Subp. 54. **Underground storage tank or underground storage tank system.** "Underground storage tank" or "underground storage tank system" means any one or combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them that is used to contain or dispense an accumulation of regulated substances, and the volume of which, including the volume of underground pipes connected to them, is ten percent or more beneath the surface of the ground. This term does not include any tank or pipes connected to a tank described in part 7150.0010, subpart 2.

Subp. 55. **Upgrade.** "Upgrade" means the addition or retrofit of systems such as cathodic protection, lining, piping, or spill and overflow controls to improve the ability of an underground storage tank system to prevent the release of a regulated substance.

Subp. 56. **Wastewater treatment tank.** "Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

### UNDERGROUND STORAGE TANK SYSTEMS DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION

#### 7150.0100 PERFORMANCE STANDARDS FOR NEW UNDERGROUND STORAGE TANK SYSTEMS.

Subpart 1. **Purpose.** To prevent releases due to structural failure, corrosion, or spills and overfills for as long as the underground storage tank system is used to store regulated substances, all owners and operators of new underground storage tank systems must meet the requirements in subparts 2 to 8.

Subp. 2. **Tanks.** Each tank must be properly designed and constructed, and any part underground that routinely contains product must be protected from corrosion using one of the methods specified in items A to E. The corrosion protection methods in items A to D must be in accordance with one of the codes of practice in subpart 3 developed by a nationally recognized association or independent testing laboratory:

A. The tank is constructed of fiberglass-reinforced plastic.

B. The tank is constructed of steel and cathodically protected in the following manner:

(1) the tank is coated with a suitable dielectric material;

(2) field-installed cathodic protection systems are designed by a corrosion expert;

(3) impressed current systems are designed to allow determination of current operating status as required in part 7150.0210, subpart 4; and

(4) cathodic protection systems are operated and maintained according to part 7150.0210.

C. The tank is constructed of a steel- and fiberglass-reinforced plastic composite.

D. The tank is constructed of metal without additional corrosion protection measures provided that:

(1) the tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

(2) owners and operators maintain records that demonstrate compliance with the requirements of subitem (1) for the remaining life of the tank.

E. The tank construction and corrosion protection are determined by the commissioner to be designed to prevent the release or threatened release of a stored regulated substance in a manner that is no less protective of human health and the environment than items A to D. The commissioner's determination under this item must be obtained in writing and owners and operators must keep the determination for the life of the tank.

Subp. 3. **Codes of practice for tanks.** Codes of practice for subpart 2 are described in items A to C.

A. The following codes of practice apply to subpart 2, item A:

(1) Underwriters Laboratories UL 1316, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products;

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## Proposed Rules

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(2) Underwriters Laboratories of Canada CAN4-S615-M83, Standard for Reinforced Plastic Underground Tanks for Petroleum Products; or

(3) American Society of Testing and Materials D4021-86, Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks.

B. The following codes of practice apply to subpart 2, item B:

(1) Steel Tank Institute Specifications for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks;

(2) Underwriters Laboratories UL 1746, Corrosion Protection Systems for Underground Storage Tanks;

(3) Underwriters Laboratories of Canada CAN4-S603.1-M85, Standard for Galvanic Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids;

(4) Underwriters Laboratories of Canada CAN4-S603-M85, Standard for Steel Underground Tanks for Flammable and Combustible Liquids;

(5) Underwriters Laboratories of Canada CAN4-S631-M84, Standard for Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems;

(6) National Association of Corrosion Engineers RP-02-85, Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems; or

(7) Underwriters Laboratories UL 58, Steel Underground Tanks for Flammable and Combustible Liquids.

C. The following codes of practice apply to subpart 2, item C:

(1) Underwriters Laboratories UL 1746, Corrosion Protection Systems for Underground Storage Tanks;

(2) Association of Composite Tanks ACT-100, Specification for the Fabrication of FRP Clad Underground Storage Tanks;

or

(3) Steel Tank Institute STI F894-89, Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks.

**Subp. 4. Piping.** The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion using one of the methods specified in items A to D. The corrosion protection methods in items A to C must be in accordance with one of the codes of practice in subpart 5 developed by a nationally recognized association or independent testing laboratory:

A. The piping is constructed of fiberglass-reinforced plastic.

B. The piping is constructed of steel and cathodically protected in the following manner:

(1) the piping is coated with a suitable dielectric material;

(2) field-installed cathodic protection systems are designed by a corrosion expert;

(3) impressed current systems are designed to allow determination of current operating status as required in part 7150.0210, subpart 4; and

(4) cathodic protection systems are operated and maintained according to part 7150.0210.

C. The piping is constructed of metal without additional corrosion protection measures, provided that:

(1) the piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

(2) owners and operators maintain records that demonstrate compliance with subitem (1) for the remaining life of the piping.

D. The piping construction and corrosion protection are determined by the commissioner to be designed to prevent the release or threatened release of a stored regulated substance in a manner that is no less protective of human health and the environment than the requirements of items A to C. The commissioner's determination under this item must be obtained in writing and the tank owners and operators must keep the determination for the life of the tank.

**Subp. 5. Codes of practice for piping.** Codes of practice for subpart 4 are described in items A to C.

A. The following codes of practice apply to subpart 4, item A:

(1) Underwriters Laboratories UL 567, Pipe Connectors for Flammable and Combustible Liquids and LP-Gas;

(2) Underwriters Laboratories of Canada CAN4-S633-M84, Flexible Underground Hose Connectors for Flammable and Combustible Liquids; or

(3) Underwriters Laboratories of Canada ULC Subject C107C-M1984, Guide for Glass Fibre Reinforced Plastic Pipe and Fittings for Flammable Liquids.

B. The following codes of practice apply to subpart 4, item B:

(1) National Fire Protection Association 30, Flammable and Combustible Liquids Code;

(2) American Petroleum Institute 1615, Installation of Underground Petroleum Storage Systems;

(3) American Petroleum Institute 1632, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems;

or

(4) National Association of Corrosion Engineers RP-01-69, Control of External Corrosion on Underground or Submerged Metallic Piping Systems.

C. The following codes of practice apply to subpart 4, item C:

(1) National Fire Protection Association 30, Flammable and Combustible Liquids Code; or

(2) National Association of Corrosion Engineers RP-01-69, Control of External Corrosion on Underground or Submerged Metallic Piping Systems.

**Subp. 6. Spill and overfill prevention equipment.**

A. Except as provided in item B, to prevent spilling and overfilling associated with product transfer to the underground storage tank system, owners and operators must use the following spill and overfill prevention equipment:

(1) spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe, for example, a spill catchment basin; and

(2) overfill prevention equipment that will:

(a) automatically shut off flow into the tank when the tank is no more than 95 percent full; or

(b) alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm.

B. Owners and operators are not required to use the spill and overfill prevention equipment specified in item A if:

(1) alternative equipment is used that is determined by the commissioner to be no less protective of human health and the environment than the equipment specified in item A; or

(2) the underground storage tank system is filled by transfers of no more than 25 gallons at one time.

The commissioner's determination under subitem (1) must be obtained in writing and the tank owners and operators must keep the determination for the life of the tank.

**Subp. 7. Installation.** All tanks and piping must be properly installed according to the manufacturer's instructions and one of the following codes of practice developed by a nationally recognized association or independent testing laboratory:

A. American Petroleum Institute 1615, Installation of Underground Petroleum Storage Systems;

B. Petroleum Equipment Institute RP 100, Recommended Practices for Installation of Underground Liquid Storage Systems;

C. American National Standards Institute B31.3, Chemical Plant and Petroleum Refinery Piping; or

D. American National Standards Institute B31.4, Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia and Alcohols.

**Subp. 8. Certification of installation.** Owners and operators must demonstrate compliance with subpart 7 by certifying on the underground storage tank notification form required in part 7150.0120 that:

A. the installer is in compliance with certification requirements imposed by the agency under chapter 7105; and

B. all work listed in the manufacturer's installation checklists has been completed.

**7150.0110 UPGRADING OF EXISTING UNDERGROUND STORAGE TANK SYSTEMS.**

Subpart 1. **Alternatives allowed.** Not later than December 22, 1998, all existing underground storage tank systems must comply with one of the following requirements:

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## Proposed Rules

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- A. new underground storage tank system performance standards under part 7150.0100;
- B. the upgrading requirements in subparts 2 to 4; or
- C. closure requirements under parts 7150.0400 to 7150.0440, including applicable requirements for corrective action under *Minnesota Statutes*, section 115.061.

Subp. 2. **Tank upgrading requirements.** Steel tanks must be protected from corrosion using the corrosion protection methods in items A to C.

- A. A tank may be upgraded by internal lining if:
  - (1) the lining is installed according to the requirements of part 7150.0230; and
  - (2) within ten years after lining, and every five years after that, the lined tank is internally inspected and found to be structurally sound with the lining still performing according to original design specifications.
- B. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of part 7150.0100, subpart 2, item B, subitems (2) to (4), and the integrity of the tank is ensured using one of the methods in subitems (1) to (4).
  - (1) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system.
  - (2) The tank has been installed for less than ten years and is monitored monthly for releases according to part 7150.0330, items E to I.
  - (3) The tank has been installed for less than ten years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of part 7150.0330, item D. The first tightness test must be conducted before installing the cathodic protection system. The second tightness test must be conducted between three and six months following the first operation of the cathodic protection system.
  - (4) The tank is assessed for corrosion holes by a method that is determined by the commissioner to prevent releases in a manner that is no less protective of human health and the environment than subitems (1) to (3).
- C. A tank may be upgraded by both internal lining and cathodic protection if:
  - (1) the lining is installed according to part 7150.0230; and
  - (2) the cathodic protection system meets the requirements of part 7150.0100, subpart 2, item B, subitems (2) to (4).
- D. The corrosion protection methods in items A to C must be in accordance with one or more of the following codes of practice developed by a nationally recognized association or independent testing laboratory:
  - (1) American Petroleum Institute 1631, Interior Lining of Underground Storage Tanks;
  - (2) National Leak Prevention Association 631, Spill Prevention, Minimum 10-Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection;
  - (3) National Association of Corrosion Engineers RP-02-85, Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems; or
  - (4) American Petroleum Institute 1632, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems.

Subp. 3. **Piping upgrading requirements.** Metal piping that routinely contains regulated substances and is in contact with the ground must meet the requirements of part 7150.0100, subpart 4, item B, subitems (2) to (4).

Subp. 4. **Spill and overflow prevention equipment.** To prevent spilling and overflowing associated with product transfer to the underground storage tank system, all existing underground storage tank systems must comply with new underground storage tank system spill and overflow prevention equipment requirements in part 7150.0100, subpart 6.

### 7150.0120 NOTIFICATION REQUIREMENTS.

Subpart 1. **Notice of underground storage tank system installation.** At least 30 days before beginning installation of an underground storage tank system under part 7150.0100, owners and operators must notify the commissioner of their intent to install the underground storage tank system.

Subp. 2. **Notification of new tanks and changes in service.** An owner who brings an underground storage tank system into use or makes a change in service to an existing tank system after June 1, 1986, must, within 30 days of bringing such tank into use or making a change in service, submit to the agency, in the form prescribed by the commissioner, a notice of the existence of such tank system or type of change in service, including the information required by *Minnesota Statutes*, section 116.48, subdivisions 1 and 3.

Subp. 3. **Owner and operator tank system certification.** Owners and operators of new underground storage tank systems must certify in the notification form compliance with the following requirements:

- A. installation of tanks and piping under part 7150.0100, subpart 8;
- B. cathodic protection of steel tanks and piping under part 7150.0100, subparts 2 and 4;
- C. financial responsibility under Code of Federal Regulations, title 40, part 280, subpart H; and
- D. release detection under parts 7150.0310 and 7150.0320.

Subp. 4. **Installer tank system certification.** Owners and operators of new underground storage tank systems must ensure that the installer certifies in the notification form that the methods used to install the tanks and piping comply with part 7150.0100, subpart 7, and that the installer is in compliance with certification requirements imposed by chapter 7105.

Subp. 5. **Repairer tank system certification.** Owners and operators of underground storage tank systems must ensure that the repairer certifies in the notification form that the methods used to repair the tanks and piping comply with parts 7150.0110 and 7150.0230 and that the repairer is in compliance with certification requirements imposed by chapter 7105.

Subp. 6. **Tank seller notification.** A person who sells a tank intended to be used as an underground storage tank or property that the seller knows contains an underground storage tank must notify the purchaser of the tank in writing of the owner's notification obligations under subpart 1 and under *Minnesota Statutes*, section 116.48.

### GENERAL OPERATING REQUIREMENTS

#### 7150.0200 SPILL AND OVERFILL CONTROL.

Subpart 1. **Spill and overflow release prevention.** Owners and operators must ensure that releases due to spilling or overfilling do not occur. The owner or operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling. One of the following codes of practice developed by a nationally recognized association or independent testing laboratory must be used to comply with this subpart:

- A. National Fire Protection Association 30, Flammable and Combustible Liquids Code;
- B. National Fire Protection Association 385, Standard for Tank Vehicles for Flammable and Combustible Liquids; or
- C. American Petroleum Institute 1621, Bulk Liquid Stock Control at Retail Outlets.

Subp. 2. **Reporting and cleanup.** The owner and operator must report, investigate, and cleanup any spills and overfills according to *Minnesota Statutes*, section 115.061.

#### 7150.0210 OPERATION AND MAINTENANCE OF CORROSION PROTECTION.

Subpart 1. **Owner and operator compliance.** Owners and operators of underground storage tank systems with corrosion protection must comply with the requirements in subparts 2 to 5 to ensure that releases due to corrosion are prevented for as long as the underground storage tank system is used to store regulated substances, or is temporarily closed in accordance with part 7150.0400.

Subp. 2. **Corrosion protection system maintenance.** All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of the part of the tank and piping that routinely contains regulated substances and is in contact with the ground.

Subp. 3. **Cathodic protection system maintenance.** All underground storage tank systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester according to the following requirements:

- A. all cathodic protection systems must be tested within six months of installation and at least every three years after that; and
- B. the criteria that are used to determine that cathodic protection is adequate as required by this subpart must be according to the code of practice in National Association of Corrosion Engineers RP-02-85, Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems.

Subp. 4. **Impressed current system maintenance.** Underground storage tank systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly.

Subp. 5. **Recordkeeping.** For underground storage tank systems using cathodic protection, records of the operation of the cathodic protection must be maintained according to part 7150.0240 to demonstrate compliance with the performance standards in this part. These records must provide:

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## Proposed Rules

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- A. the results of the last three inspections required in subpart 4; and
- B. the results of testing from the last two inspections required in subpart 3.

### 7150.0220 COMPATIBILITY.

Owners and operators must use an underground storage tank system made of or lined with materials that are compatible with the substance stored in the underground storage tank system. Owners and operators storing alcohol blends may use the following guidance to comply with the requirements of this part:

A. American Petroleum Institute 1626, Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations; or

B. American Petroleum Institute 1627, Storing and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations.

### 7150.0230 REPAIRS ALLOWED.

Owners and operators of underground storage tank systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the underground storage tank system is used to store regulated substances. The owner and operator of the tank shall ensure that the person performing the repairs has been certified under chapter 7105. The repairs must meet the requirements in items A to F:

A. Repairs to underground storage tank systems must be properly conducted according to one of the following codes of practice developed by a nationally recognized association or independent testing laboratory:

(1) National Fire Protection Association 30, Flammable and Combustible Liquids Code;

(2) American Petroleum Institute 2200, Repairing Crude Oil, Liquefied Petroleum Gas and Product Pipelines;

(3) American Petroleum Institute 1631, Interior Lining of Underground Storage Tanks; or

(4) National Leak Prevention Association 631, Spill Prevention, Minimum 10-Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection.

B. Repairs to fiberglass-reinforced plastic tanks must be made according to the codes of practice required in item A.

C. Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings must be repaired in accordance with the manufacturer's specifications.

D. Repaired tanks and piping must be tightness tested according to parts 7150.0330, item D; and 7150.0340, item B, within 30 days after the date of the completion of the repair except as provided in subitems (1) to (3):

(1) the repaired tank is internally inspected according to the codes of practice required in item A;

(2) the repaired part of the underground storage tank system is monitored monthly for releases according to a method specified in part 7150.0330, items E to I; or

(3) another test method is used that is determined by the commissioner to be no less protective of human health and the environment than the tests in subitems (1) and (2).

E. Within six months after the repair of a cathodically protected underground storage tank system, the cathodic protection system must be tested according to part 7150.0210, subparts 3 and 4, to ensure that it is operating properly.

F. Owners and operators must maintain records of each repair, and of a commissioner's determination under item D, subitem (3), for the remaining operating life of the underground storage tank system that demonstrate compliance with the requirements of this part.

### 7150.0240 REPORTING AND RECORDKEEPING.

Owners and operators of underground storage tank systems must cooperate fully with inspections, monitoring, and testing conducted by the agency, as well as requests for document submission, testing, and monitoring by the owner or operator under United States Code, title 42, section 6991d.

A. Owners and operators must submit the following information to the commissioner:

(1) notification of all underground storage tank systems under part 7150.0120, including certification of installation for new underground storage tank systems under part 7150.0100, subpart 8;

(2) notification of the discovery of an abandoned tank or of a change in the uses, contents, or ownership of a tank under *Minnesota Statutes*, section 116.48, subdivisions 2 and 3;

(3) reports of all releases under *Minnesota Statutes*, section 115.061, including suspected releases, spills and overfills, and confirmed releases;

(4) information generated in the course of taking corrective action as defined in *Minnesota Statutes*, section 115C.02, subdivision 4; and

(5) a notification before permanent closure or change in service under part 7150.0410.

**B. Owners and operators must maintain the following information:**

(1) a corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used under part 7150.0100, subparts 2, item D, and 4, item C;

(2) the commissioner's determination that alternative corrosion protection or spill and overfill equipment means may be used under part 7150.0100, subpart 2, item E; 4, item D; or 6, item B;

(3) documentation of operation of corrosion protection equipment under part 7150.0210, subpart 5;

(4) documentation of underground storage tank system repairs under part 7150.0230, item F;

(5) documentation of compliance with release detection requirements under part 7150.0350; and

(6) results of the site investigation conducted at permanent closure under part 7150.0440.

**C. Owners and operators must keep the records required either:**

(1) at the underground storage tank site where they are immediately available for inspection by the commissioner; or

(2) at a readily available alternative site where they can be provided for inspection to the commissioner upon request.

In the case of permanent closure records required under part 7150.0440, owners and operators are also provided with the additional alternative of mailing closure records to the commissioner if they cannot be kept at the site or an alternative site as required in this item.

**RELEASE DETECTION**

**7150.0300 GENERAL REQUIREMENTS FOR ALL UNDERGROUND STORAGE TANK SYSTEMS.**

Subpart 1. **Methods.** Owners and operators of new and existing underground storage tank systems must provide a method, or combination of methods, of release detection that:

A. can detect a release from any part of the tank and the connected underground piping that routinely contains product;

B. is installed, calibrated, operated, and maintained according to the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and

C. meets the performance requirements in part 7150.0330 or 7150.0340, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, all methods must be capable of detecting the leak rate or quantity specified for that method in part 7150.0330, items B to E; or 7150.0340, items A and B, with a probability of detection of 0.95 and a probability of false alarm of 0.05.

Subp. 2. **Release notification.** When a release detection method operated according to the performance standards in parts 7150.0330 and 7150.0340 indicates a release may have occurred, owners and operators must notify the agency according to *Minnesota Statutes*, section 115.061.

Subp. 3. **Release detection schedule.** Owners and operators of all underground storage tank systems must comply with the release detection requirements of parts 7150.0300 to 7150.0350 by December 22 of the year listed in the following table. Hazardous material tanks which are not regulated by Code of Federal Regulations, title 40, part 280, must comply with these requirements by the date indicated or by (insert date 180 days after date of adoption), whichever is later:

**Schedule for Phase-in of Release Detection**

Year System Was Installed	Year When Release Detection is Required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-1969		P/RD			

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# Proposed Rules

Year System Was Installed	Year When Release Detection is Required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
1970-1974		P	RD		
1975-1979		P		RD	
1980-1988		P			RD
New tanks (after December 22, 1988)			Immediately upon installation		

P = must begin release detection for all pressurized piping according to part 7150.0310.

RD = must begin release detection for tanks and suction piping according to parts 7150.0310, items A and B, subitem (2); and 7150.0320.

Subp. 4. **Closure.** Owners and operators of existing underground storage tank systems that cannot apply a method of release detection that complies with the requirements of parts 7150.0300 to 7150.0350 must complete the closure procedures in parts 7150.0400 to 7150.0440 by the date on which release detection is required for the underground storage tank system under subpart 3.

## 7150.0310 REQUIREMENTS FOR PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS.

Owners and operators of petroleum underground storage tank systems must provide release detection for tanks and piping as required in items A and B.

A. Tanks must be monitored at least every 30 days for releases using one of the methods in part 7150.0330, items E to I, except that:

(1) underground storage tank systems that meet the performance standards in part 7150.0100 or 7150.0110, and the monthly inventory control requirements in part 7150.0330, item A or B, may use tank tightness testing, conducted according to part 7150.0330, item D, at least every five years until December 22, 1998, or until ten years after the tank is installed or upgraded under part 7150.0110, item B, whichever is later;

(2) underground storage tank systems that do not meet the performance standards in part 7150.0100 or 7150.0110 may use monthly inventory controls conducted according to part 7150.0330, item A or B, and annual tank tightness testing conducted according to part 7150.0330, item D, until December 22, 1998, when the tank must be upgraded under part 7150.0110 or permanently closed under part 7150.0410; and

(3) tanks with capacities of 550 gallons or less may use weekly manual tank gauging conducted according to part 7150.0330, item B, as the sole method of release detection.

B. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the requirements in subitem (1) or (2).

(1) Underground piping that conveys regulated substances under pressure must:

(a) be equipped with an automatic line leak detector conducted according to part 7150.0340, item A; and

(b) have an annual line tightness test conducted according to part 7150.0340, item B, or have monthly monitoring conducted according to part 7150.0340, item C.

(2) Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three years and according to part 7150.0340, item B, or use a monthly monitoring method conducted according to part 7150.0340, item C. No release detection is required for suction piping that is designed and constructed to meet the following standards:

(a) the below-grade piping operates at less than atmospheric pressure;

(b) the below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(c) only one check valve is included in each suction line;

(d) the check valve is located directly below and as close as practical to the suction pump; and

(e) a method is provided that allows compliance with units (b) to (d) to be readily determined.

## 7150.0320 REQUIREMENTS FOR HAZARDOUS MATERIAL UNDERGROUND STORAGE TANK SYSTEMS.

Owners and operators of hazardous material underground storage tank systems must provide release detection that meets the requirements in items A and B.

A. Release detection at existing hazardous material underground storage tank systems must meet the requirements for petroleum

underground storage tank systems in part 7150.0310 by the dates set forth in part 7150.0300. By December 22, 1998, all existing hazardous material underground storage tank systems must meet the release detection requirements for new systems in item B.

B. Release detection at new hazardous material underground storage tank systems must meet the requirements in subitems (1) to (5):

(1) Secondary containment systems must be designed, constructed, and installed to:

- (a) contain regulated substances released from the tank system until they are detected and removed;
- (b) prevent the release of regulated substances to the environment at any time during the operational life of the underground storage tank system; and
- (c) be checked for evidence of a release at least every 30 days.

The provisions of part 7045.0528 may be used to comply with this subitem.

(2) Double-walled tanks must be designed, constructed, and installed to:

- (a) contain a release from any part of the inner tank within the outer wall; and
- (b) detect the failure of the inner wall.

(3) External liners, including vaults, must be designed, constructed, and installed to:

- (a) contain 100 percent of the capacity of the largest tank within its boundary;
- (b) prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and
- (c) surround the tank completely, for example, it is capable of preventing lateral as well as vertical migration of regulated substances.

(4) Underground piping must be equipped with secondary containment that satisfies the requirements of subitem (1), for example, trench liners and jacketing of double-walled pipe. In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector according to part 7150.0340, item A.

(5) Other methods of release detection may be used if owners and operators:

- (a) demonstrate to the commissioner that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in part 7150.0330, items B to I, can detect a release of petroleum;
- (b) provide information to the commissioner on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the underground storage tank site; and
- (c) obtain approval from the commissioner to use the alternate release detection method before the installation and operation of the new underground storage tank system.

#### **7150.0330 METHODS OF RELEASE DETECTION FOR TANKS.**

Each method of release detection for tanks used to meet the requirements of part 7150.0310 must be conducted according to items A to I.

A. Product inventory control or another test of equivalent performance must be conducted monthly to detect a release of at least 1.0 percent flow-through plus 130 gallons on a monthly basis in the following manner:

- (1) inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;
- (2) the equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- (3) the regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- (4) deliveries are made through a drop tube that extends to within one foot of the tank bottom;

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## Proposed Rules

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(5) product dispensing is metered and recorded within the local standards for meter calibration incorporated by reference at part 7600.6800; and

(6) the measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month.

Practices described in American Petroleum Institute 1621, Recommended Practice for Bulk Liquid Stock Control at Retail Outlets, may be used, where applicable, as guidance in meeting the requirements of this item.

B. Manual tank gauging may be used as described in this item to meet the requirements of part 7150.0310, item A.

(1) For tanks with capacities of 1,000 gallons or less, weekly manual tank gauging may be used as the sole method of release detection.

(2) For tanks with capacities of 1,001 to 2,000 gallons, manual tank gauging may be used in place of product inventory control in item A.

For tanks not described in subitems (1) and (2), manual tank gauging may not be used to satisfy the provisions of part 7150.0310, item A.

C. Manual tank gauging must meet the following requirements:

(1) tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;

(2) level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period; and

(3) the equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch.

A leak is suspected and subject to the requirements of *Minnesota Statutes*, section 115.061, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Tank Capacity	Weekly Standard (one test)	Monthly Standard (four-test avg.)	Minimum Duration of Test
If manual tank gauging is the ONLY leak detection method used:			
up to 550 gallons	10 gallons	5 gallons	36 hours
551-1,000 gallons (when largest tank is 64" x 73")	9 gallons	4 gallons	44 hours
1,000 gallons (if tank is 48" x 128")	12 gallons	6 gallons	58 hours
If manual tank gauging is combined with Tank Tightness Testing:			
1,001-2,000 gallons	26 gallons	13 gallons	36 hours

D. Tank tightness testing or another test of equivalent performance must be capable of detecting a 0.1 gallon per hour leak rate from any part of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

E. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

(1) the automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any part of the tank that routinely contains product; and

(2) inventory control or another test of equivalent performance is conducted according to the requirements of item A.

F. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

(1) the materials used as backfill are sufficiently porous such as gravel, sand, or crushed rock, to readily allow diffusion of vapors from releases into the excavation area;

(2) the stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile, such as gasoline,

to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

(3) the measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

(4) the level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

(5) the vapor monitoring points are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

(6) in the underground storage tank excavation zone, the site is assessed to ensure compliance with the requirements in subitems (1) to (4) and to establish the number and positioning of vapor monitoring points that will detect releases within the excavation zone from any part of the tank that routinely contains product; and

(7) vapor monitoring points are clearly marked and secured to avoid unauthorized access and tampering.

G. Testing or monitoring for liquids in the groundwater must meet the provisions of chapter 4725, as well as the following requirements:

(1) the regulated substance stored is immiscible in water and has a specific gravity of less than one;

(2) groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil between the underground storage tank system and the monitoring wells or devices is not less than 0.01 centimeters per second, for example, the soil should consist of gravels, coarse to medium sands, coarse silts, or other permeable materials;

(3) the slotted part of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

(4) monitoring wells are sealed from the ground surface to the top of the filter pack;

(5) monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

(6) the continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;

(7) within and immediately below the underground storage tank system excavation zone, the site is assessed to ensure compliance with the requirements in subitems (1) to (5), and to establish the number and positioning of monitoring wells or devices that will detect releases from any part of the tank that routinely contains product; and

(8) monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

H. Interstitial monitoring between the underground storage tank system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed, and installed to detect a leak from any part of the tank that routinely contains product and also meets one of the requirements of subitems (1) to (3).

(1) For double-walled underground storage tank systems, the sampling or testing method can detect a release through the inner wall in any part of the tank that routinely contains product. The provisions outlined in the Steel Tank Institute's Standard for Dual Wall Underground Storage Tanks may be used as guidance for aspects of the design and construction of underground steel double-walled tanks.

(2) For underground storage tank systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the underground storage tank system and the secondary barrier according to the following requirements:

(a) the secondary barrier around or beneath the underground storage tank system consists of artificially constructed material that is sufficiently thick and impermeable, being at least  $10^{-6}$  centimeters per second for the regulated substance stored, to direct a release to the monitoring point and permit its detection;

(b) the barrier is compatible with the regulated substance stored so that a release from the underground storage tank system will not cause a deterioration of the barrier allowing a release to pass through undetected;

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## Proposed Rules

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(c) for cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

(d) the groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

(e) the site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and

(f) monitoring wells and vapor monitoring points are clearly marked and secured to avoid unauthorized access and tampering.

(3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

I. Any other type of release detection method, or combination of methods, can be used if:

(1) it can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; and

(2) the owner and operator can demonstrate to the commissioner that the method can detect a release as effectively as any of the methods allowed in items D to H and obtain the commissioner's prior approval of the method. In comparing methods, the commissioner shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved by the commissioner, the owner and operator must comply with any conditions imposed by the commissioner on its use to ensure the protection of human health and the environment.

### **7150.0340 METHODS OF RELEASE DETECTION FOR PIPING.**

Each method of release detection for piping used to meet the requirements of part 7150.0300 must be conducted according to items A to C.

A. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at ten pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector must be conducted according to the manufacturer's requirements.

B. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.

C. Any of the methods in part 7150.0330, items F to I, may be used if they are designed to detect a release from any part of the underground piping that routinely contains regulated substances.

### **7150.0350 RELEASE DETECTION RECORDKEEPING.**

Owners and operators shall maintain records according to part 7150.0240 demonstrating compliance with applicable requirements of parts 7150.0300 to 7150.0350. These records must include the requirements of items A to C.

A. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for as long as the system is being used to comply with the requirements of this chapter.

B. The results of any sampling, testing, or monitoring must be maintained for at least ten years.

C. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least ten years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained as long as the system is being used to comply with the requirements of this chapter.

D. Documentation of the commissioner's approval of alternate release detection methods under part 7150.0330, item I, must be maintained for as long as the methods are being used to comply with the requirements of this chapter.

## **OUT-OF-SERVICE UNDERGROUND STORAGE TANK SYSTEMS AND CLOSURE**

### **7150.0400 TEMPORARY CLOSURE.**

Subpart 1. **Requirements.** In addition to the requirements of chapter 7510, the Minnesota Uniform Fire Code, owners and operators must comply with the provisions in subparts 2 to 4 relating to temporary closure.

Subp. 2. **Operation and maintenance during temporary closure.** When an underground storage tank system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection according to part 7150.0210, and any release detection according to parts 7150.0300 to 7150.0350. Release detection is not required as long as the underground storage tank system

is empty. The underground storage tank system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters, or one inch, of residue, or 0.3 percent by weight of the total capacity of the underground storage tank system, remain in the system.

Subp. 3. **Tanks out of service 90 days.** When an underground storage tank system is temporarily closed for 90 days or more, owners and operators must also comply with the following requirements:

- A. leave vent lines open and functioning; and
- B. cap and secure all other lines, pumps, passageways, and appurtenances.

Subp. 4. **Tanks out of service one year.** When an underground storage tank system is temporarily closed for more than 12 months, owners and operators must permanently close the underground storage tank system if it does not meet either performance standards in part 7150.0100 for new underground storage tank systems or the upgrading requirements in part 7150.0110, except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard underground storage tank systems at the end of this 12-month period according to parts 7150.0410 to 7150.0440, unless the commissioner provides an extension of the 12-month temporary closure period. Owners and operators must complete a site assessment according to part 7150.0420 before such an extension can be applied for.

#### **7150.0410 PERMANENT CLOSURE AND CHANGES-IN-SERVICE TO STORAGE OF NONREGULATED SUBSTANCES.**

Subpart 1. **Requirements.** In addition to the requirements of chapter 7510, the Minnesota Uniform Fire Code, owners and operators must comply with the provisions in subparts 2 to 7 relating to permanent closure and changes-in-service.

Subp. 2. **Notice of closure or change in service.** At least ten days before beginning either permanent closure or a change-in-service under subparts 3 and 4, owners and operators must notify the commissioner of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action. The required assessment of the excavation zone under part 7150.0420 must be performed after notifying the commissioner but before completion of the permanent closure or a change-in-service.

Subp. 3. **Permanent closure.** To permanently close a tank, owners and operators must empty and clean it by removing all liquids and accumulated sludges. All tanks taken out of service permanently must also be either removed from the ground or filled in with an inert solid material.

Subp. 4. **Storage of nonregulated substances.** Continued use of an underground storage tank system to store a nonregulated substance is considered a change in service. Before a change in service to storage of a nonregulated substance, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment according to part 7150.0420.

Subp. 5. **Certified removers.** Owners and operators must ensure that persons performing permanent closures under subpart 3 or changes-in-service under subpart 4 are in compliance with certification requirements imposed by chapter 7105. Certified removers must furnish copies of current certificates issued by the agency to the owner and operator before beginning a permanent closure under subpart 3 or a change-in-service under subpart 4.

Subp. 6. **Tank system closure certification.** Owners and operators must ensure that the person who removes or otherwise closes an underground storage tank system certifies in the notification form that the methods used to remove or otherwise close the tanks and piping comply with part 7150.0410, subparts 3 to 5.

Subp. 7. **Cleaning and closure procedures.** The cleaning and closure procedures listed in one of the following documents must be used as guidance for complying with this part:

- A. American Petroleum Institute 1604, Removal and Disposal of Used Underground Petroleum Storage Tanks;
- B. American Petroleum Institute 1631, Interior Lining of Underground Storage Tanks; or
- C. American Petroleum Institute 2015, Cleaning Petroleum Storage Tanks.

#### **7150.0420 ASSESSING THE SITE AT CLOSURE OR CHANGE IN SERVICE.**

When removing or closing a tank or making a change in service to storage of a nonregulated substance, owners and operators must measure through laboratory analysis for the presence of a release where contamination is most likely to be present at the underground storage tank site. If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered by this measurement or by any other manner, owners and operators must notify the agency immediately and begin corrective action according to *Minnesota Statutes*, section 115.061. In selecting sample types, sample locations, and measurement methods, owners and operators must consider

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## Proposed Rules

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the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. The requirements of this part are satisfied if one of the external release detection methods allowed in part 7150.0330, items F and G, is operating according to the requirements of part 7150.0330 at the time of removal, closure, or making a change in service to storage of a nonregulated substance, and indicates no release has occurred.

### **7150.0430 APPLICABILITY TO PREVIOUSLY CLOSED UNDERGROUND STORAGE TANK SYSTEMS.**

When directed by the commissioner, the owner and operator of an underground storage tank system permanently closed before December 22, 1988, must assess the excavation zone and close the underground storage tank system according to parts 7150.0400 to 7150.0440 if releases from the underground storage tank may, in the judgment of the commissioner, pose a current or potential threat to human health and the environment.

### **7150.0440 CLOSURE RECORDS.**

Owners and operators must maintain records according to part 7150.0240 that are capable of demonstrating compliance with closure requirements under parts 7150.0400 to 7150.0440. The results of the excavation zone assessment required in part 7150.0420 must be maintained for at least three years after completion of permanent closure or change in service in one of the following ways:

- A. by the owners and operators who took the underground storage tank system out of service;
- B. by the current owners and operators of the underground storage tank system site; or
- C. by mailing these records to the commissioner if they cannot be maintained at the closed facility.

### **7150.0500 INCORPORATION BY REFERENCE.**

Subpart 1. **Scope.** For purposes of chapter 7150, the documents in subpart 2 are incorporated by reference. They can be found at the Minnesota State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155 or at the addresses indicated. If any of the documents are amended, and if the amendments are incorporated by reference or otherwise made a part of federal technical rules at Code of Federal Regulations, title 40, part 280, then the amendments to documents are also incorporated by reference in this chapter.

Subp. 2. **Referenced standards.** The documents incorporated by reference in this chapter are listed in items A to K:

- A. American Societies of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.
  - (1) B31.3, Chemical Plant and Petroleum Refinery Piping (1987); and
  - (2) B31.4, Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia and Alcohols (1986).
- B. American Petroleum Institute, 1220 L Street Northwest, Washington, D.C. 20005.
  - (1) 1604, Removal and Disposal of Used Underground Petroleum Storage Tanks (1987);
  - (2) 1615, Installation of Underground Petroleum Storage Systems (1987);
  - (3) 1621, Bulk Liquid Stock Control at Retail Outlets (1987);
  - (4) 1626, Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations (1985);
  - (5) 1627, Storing and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations (1986);
  - (6) 1631, Interior Lining of Underground Storage Tanks (1987);
  - (7) 1632, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems (1987);
  - (8) 2015, Cleaning Petroleum Storage Tanks (1985); and
  - (9) 2200, Repairing Crude Oil, Liquefied Petroleum Gas and Product Pipelines (1983).
- C. American Society of Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

D4021-86, Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks (1986).
- D. Association of Composite Tanks, 108 North State Street, Suite 720, Chicago, Illinois 60602.

ACT-100, Specification for the Fabrication of FRP Clad/Composite Underground Storage Tanks (1989).
- E. National Association of Corrosion Engineers, Publications Department, P.O. Box 218340, Houston, Texas 77218.
  - (1) RP-01-69, Control of External Corrosion on Underground or Submerged Metallic Piping Systems (1983); and
  - (2) RP-02-85, Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems (1985).

F. National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

- (1) 30, Flammable and Combustible Liquids Code (1987); and
- (2) 385, Standard for Tank Vehicle for Flammable and Combustible Liquids (1985).

G. National Leak Prevention Association, 4090 Rosehill Avenue, Cincinnati, Ohio 45229.

631, Spill Prevention, Minimum 10-Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection (1988).

H. Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma 74101.

RP100, Recommended Practices for Installation of Underground Liquid Storage Systems (1990).

I. Steel Tank Institute, 728 Anthony Trail, Northbrook, Illinois 60062.

- (1) Specifications for STI-P<sub>3</sub>, System of External Corrosion Protection of Underground Steel Storage Tanks (1987);
- (2) Steel Tank Institute Standard for Dual Wall Underground Steel Storage Tanks (undated); and
- (3) STI F894-89, Steel Tank Institute Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks (1989).

J. Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, Illinois 60062.

- (1) UL 58, Steel Underground Tanks for Flammable and Combustible Liquids (1986);
- (2) UL 567, Pipe Connectors for Flammable and Combustible Liquids and LP-Gas (1989);
- (3) UL 1316, Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products (1983); and
- (4) UL 1746, Corrosion Protection Systems for Underground Storage Tanks (1989).

K. Underwriters Laboratories of Canada, 7 Crouse Road, Scarborough, Ontario, Canada M1R 3A9.

- (1) CAN4-S603.1-M85, Standard for Galvanic Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids (1985);
- (2) CAN4-S603-M85, Standard for Steel Underground Tanks for Flammable and Combustible Liquids (1985);
- (3) CAN4-S615-M83, Standard for Reinforced Plastic Underground Tanks for Petroleum Products (1983);
- (4) CAN4-S631-M84, Standard for Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems (1984);
- (5) CAN4-S633-M84, Flexible Underground Hose Connectors for Flammable and Combustible Liquids (1984); and
- (6) ULC Subject C107C-M1984, Guide for Glass Fibre Reinforced Plastic Pipe and Fittings for Flammable Liquids (1984).

## Department of Public Service

### Proposed Permanent Rules Relating to Minnesota Energy Code

#### Notice of Intent to Amend a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-Five or More Persons Request a Hearing

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Public Service intends to adopt amendments to *Minnesota Rules* Chapter 7670, without a public hearing following the procedures set forth in the *Minnesota Statutes*, sections 14.22 to 14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, section 216C.19, subdivision 8.

All persons have 30 days in which to submit comment in support of or in opposition to any part or subpart of the proposed amendments. Comment is encouraged. Each comment should identify the proposed amendment addressed, the reason for the comment, and any change proposed.

All persons may make a written request for a public hearing on the proposed amendments within the 30-day comment period. If

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## Proposed Rules

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25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing must state his or her name and address and is encouraged to identify the portion of the proposed amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

These rules were previously published in 15 S.R. 828 (October 1, 1990) and mailed on September 25, 1990. However, significant amendments are being proposed, so the rule is being re-noticed with a new comment period. If you requested a hearing in the previous rulemaking proceeding, and still desire a hearing on these rules, you must submit another request during this comment period.

**PLEASE NOTE: that if twenty five or more persons submit written requests for a public hearing within the 30 day comment period, a public hearing will be held on March 29, 1991 unless a sufficient number withdraw their requests in accordance with the notice of hearing on these rules published in the STATE REGISTER and mailed to persons registered with the Department of Public Service.** To verify whether a hearing will be held, please call the Department of Public Service, Energy Information Center on March 22, 1991 between the hours on 8:00 a.m. and 4:15 p.m. at 296-5175 or Minnesota toll free 800-652-9747 (ask for "Energy").

Comments or written requests for a public hearing must be submitted to:

Bruce Nelson, Senior Engineer	150 East Kellogg Boulevard
Department of Public Service, Energy Division	St. Paul, MN 55101
790 American Center Building	phone (612) 297-2313 fax (612) 297-1959

The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed amendments as noticed.

A Copy of the proposed rule amendment is attached to this notice.

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available by requesting a copy from Mr. Nelson at the address listed above.

The adoption of these rules will not result in additional spending by local bodies of government in excess of \$100,000 per year in either of the first two years following their adoption.

*Minnesota Statute* § 14.115, subdivision 2 (1988) requires the department, when proposing rules which may affect small business, to consider five methods for reducing the impact on small businesses. The adoption of these rule amendments will affect small businesses in Minnesota. The department has evaluated the effect of the proposed rules on small businesses and has considered each of the methods listed above for reducing the impact of the rules on small businesses.

*Minnesota Statutes* § 14.115, subd. 2(a) (1988) requires the department to consider the establishment of less stringent compliance or reporting requirements for small business. The proposed amendments to part 7670.0470, subpart 2 (items 1 and 4) relating to determination of window thermal performance are less stringent because they require no costly physical testing to demonstrate compliance. Chapter 7670 contains no reporting requirements.

Since Chapter 7670 contains no scheduling, deadline or reporting requirements, *Minnesota Statutes* § 14.115, subd. 2(b) and (c) are not applicable.

The proposed rules include several significant performance standards in conformance with *Minnesota Statutes* § 14.115, subd. 2(d). Part 7670.0470, subpart 2, includes four performance options for determining the thermal performance of windows. The Model Energy Code chapter 4 (Building Design Systems Analysis) is entirely performance based. The Model Energy Code chapter 5 (Building Design by Component Performance Approach) is also performance based. Finally, the lighting criteria proposed in Part 7670.0800, subpart 2 are performance based.

*Minnesota Statutes* § 14.115, subd. 2(e) requires the department to consider exempting small businesses from any or all requirements of the rule. *Minnesota Statutes* § 16B.62 establishes the scope of application of the State Building Code. To exempt small businesses would be contrary to the latter statute. It would be inappropriate for the department to usurp statutory requirements by changing the applicability to exempt small business. In the proposed rule part 7670.0100, subpart 3, the applicability of the chapter is modified to exempt relocated residential buildings in conformance with *Minnesota Statutes* § 16B.61, subd. 3(i).

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent that form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit a written request for such to Mr. Nelson at the address listed above.

Dated: 1 February 1991

Kris Sanda, Commissioner  
Department of Public Service

**Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing**

**NOTICE IS HEREBY GIVEN** that a public hearing on the above-entitled matter will be held on March 29, 1991 in Conference Room 4, 9th floor of the American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

These rules were previously published in 15 S.R. 828 (October 1, 1990) and mailed on September 25, 1990. However, significant amendments are being proposed, so the rule is being re-noticed with a new comment period. If you requested a hearing in the previous rulemaking proceeding, and still desire a hearing on these rules, you must submit another request during this comment period.

**PLEASE NOTE, HOWEVER, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Public Service, Energy Division.** To verify whether a hearing will be held, please call the Department of Public Service, Energy Information Center on March 22, 1991 between the hours of 8:00 a.m. and 4:15 p.m. at 296-5175 or Minnesota toll free 800-652-9747 (ask for "Energy").

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record to be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three day period, the agency may indicate, in writing, whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be admitted during the three day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, Sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Authority for the adoption of these rules is contained in *Minnesota Statutes*, section 216C.19, subdivision 8.

The adoption of these rules will not result in additional spending by local bodies of government in excess of \$100,000 per year in either of the first two years following their adoption.

*Minnesota Statute* § 14.115, subdivision 2 (1988) requires the department, when proposing rules which may affect small business, to consider five methods (a through e) for reducing the impact on small businesses. The adoption of these rule amendments will affect small businesses in Minnesota. The department has evaluated the effect of the proposed rules on small businesses and has considered each of the methods listed above for reducing the impact of the rules on small businesses.

*Minnesota Statutes* § 14.115, subd. 2(a) (1988) requires the department to consider the establishment of less stringent compliance or reporting requirements for small business. The proposed amendments to part 7670.0470, subpart 2 (items 1 and 4) relating to determination of window thermal performance are less stringent because they require no costly physical testing to demonstrate compliance. Chapter 7670 contains no reporting requirements.

Since Chapter 7670 contains no scheduling, deadline or reporting requirements, *Minnesota Statutes* § 14.115, subd. 2(b) and (c) are not applicable.

The proposed rules include several significant performance standards in conformance with *Minnesota Statutes* § 14.115, subd. 2(d). Part 7670.0470, subpart 2, includes four performance options for determining the thermal performance of windows. The Model Energy Code chapter 4 (Building Design Systems Analysis) is entirely performance based. The Model Energy Code chapter 5 (Building Design by Component Performance Approach) is also performance based. Finally, the lighting criteria proposed in Part 7670.0800, subpart 2 are performance based.

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

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A Copy of the proposed rule amendment is attached to this notice.

**NOTICE:** Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to filing the rules with the secretary of state.

**NOTICE IS HEREBY GIVEN** that a Statement of Need and Reasonableness is now available for review at the Agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Copies of the Statement of Need and Reasonableness are also available by submitting a request to:

Bruce Nelson, Senior Engineer  
Department of Public Service, Energy Division  
790 American Center Building  
150 East Kellogg Boulevard  
St. Paul, MN 55101  
phone (612) 297-2313 fax (612) 297-1959

*Minnesota Statutes*, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials;

(b) who spends more than \$250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone 612-296-5148.

Dated: 1 February 1991

Kris Sanda, Commissioner  
Department of Public Service

### Rules as Proposed

#### GENERAL

#### 7670.0100 AUTHORITY; SCOPE; APPLICABILITY.

Subpart 1. Authority. This chapter is adopted pursuant to *Minnesota Statutes*, section 216C.19, subdivision 8 and constitute amendments to.

Subp. 2. Scope. Under *Minnesota Statutes*, section 216C.19, subdivision 8, this chapter is a part of the State Building Code, adopted according to *Minnesota Statutes*, sections 16B.59 to 16B.73. In cases of conflict with the State Building Code, this chapter governs in all cases not affecting safety and health requirements.

Additionally, this chapter is intended to serve as standards for conducting maxi audits of existing buildings owned by the state, the University of Minnesota, cities, counties, and school districts as specified in *Minnesota Statutes*, section 216C.20.

Subp. 3. Applicability. Buildings covered by this chapter must comply with the Model Energy Code as amended by parts 7670.0260 to 7670.1000.

EXCEPTION: Relocated residential buildings need not comply with this chapter, except that, where available, an energy audit must be conducted on the relocated building.

**7670.0125 LEGISLATIVE MANDATES CONCERNING MINNESOTA ENERGY CODE.**

An enclosed structure or portion of an enclosed structure constructed after January 1, 1978, and used primarily as a commercial parking facility for three or more motor vehicles may not be heated. Incidental heating resulting from building exhaust air passing through a parking facility is not prohibited if substantially all useful heat previously has been removed from the air.

EXCEPTION: Parking facilities that are appurtenant to dwelling unit occupancies.

**7670.0130 ADOPTION INCORPORATIONS BY REFERENCE OF THE MODEL ENERGY CODE WITH AMENDMENTS.**

Subpart 1. Incorporated items. The following standards and references are incorporated by reference:

A. The Model Energy Code, 1983 1989 Edition, as published by the Council of American Building Officials (Falls Church, Virginia), is incorporated by reference and made a part of the State Building Code, subject to the amendments in this chapter as amended by parts 7670.0260 to 7670.1000.

B. Code of Federal Regulations, title 10, part 435, Energy Conservation Voluntary Performance Standards for New Commercial and Multi-Family High Rise Residential Buildings; Mandatory for New Federal Buildings.

C. Code of Federal Regulations, title 10, part 430, National Appliance Energy Conservation Act of 1987.

D. LTGSTD, lighting prescriptive and system performance compliance calculation program, a computer program developed by Battelle Pacific Northwest Laboratories.

E. ANSI/ASHRAE Standard 119-1988, Air Leakage Performance for Detached Single-Family Residential Buildings.

F. AAMA Standard 1503.1-88, Voluntary Test Method for Thermal Transmittance and Condensation Resistance of Windows, Doors and Glazed Wall Sections.

G. ASTM C 236-87, Standard Test Method for Steady State Thermal Performance of Building Assemblies by means of a Guarded Hot Box.

H. ASTM C 976-82, Standard Test Method for Thermal Performance of Building Assemblies by means of a Calibrated Hot Box.

I. WINDOW, a computer program developed by the Windows and Daylighting Group at Lawrence Berkeley Laboratory.

Subp. 2. Availability. All standards and documents incorporated by reference are available for public inspection at the Minnesota State Law Library and through the Minitex interlibrary loan system. In addition:

A. ASHRAE and ANSI/ASHRAE documents and standards are available from the American Society of Heating, Refrigerating and Air-Conditioning Engineers - Publication Sales, 1791 Tullie Circle NE, Atlanta, GA 30329;

B. AAMA standards are available from the American Architectural Manufacturers Association, 2700 River Road, Des Plaines, IL 60018;

C. ASTM standards are available from ASTM, 1916 Race Street, Philadelphia, PA 19103; and

D. The WINDOW computer program is available from Bostik Construction Products, 1740 County Line, Huntington Valley, PA 19006.

**7670.0260 MATERIALS AND EQUIPMENT.**

Section 102 of the Model Energy Code is amended by adding a paragraph to read:

102.3 Thermal Insulation. Thermal insulation used in residential buildings three stories or less in height must conform to chapter 7640, Minnesota Thermal Insulation Standards, adopted by the Department of Public Service.

**7670.0325 AMENDMENTS TO SECTION 201: DEFINITIONS.**

Subpart 1. Thermal transmittance (U). In section 201 of the Model Energy Code, the definition of "Thermal transmittance (U)" is amended to read:

THERMAL TRANSMITTANCE (U). The coefficient of heat transmission (air to air). It is the time rate of heat flow per unit area and unit temperature differential between the warm side and cold side air films (Btu/h ft<sup>2</sup> F).

Thermal transmittance of opaque wall components (U<sub>w</sub>) and roof/ceiling components (U<sub>c</sub>) calculation methods are defined in the references indicated:

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

# Proposed Rules

(1) Parallel heat flow method: Model Energy Code, chapter 5, equations 1 and 2, substituting the framing and insulated cavity components of the opaque wall or roof/ceiling for the elements designated by subscripts in these equations.

(2) Series-parallel method: Page 20.8 of Standard RS-1 listed in chapter 7.

(3) Parallel path correction factor method: Standard RS-24 listed in chapter 7.

(4) Thermal bridges in sheet metal construction method: Standard RS-25 listed in chapter 7.

(5) Zone method: Pages 22.10 and 22.11 of Standard RS-1 listed in chapter 7.

Subp. 2. **Vapor retarder.** Section 201 of the Model Energy Code is amended by adding a new definition to read:

**VAPOR RETARDER.** A material to retard air and water vapor passage designed to meet a maximum perm rating of 1.0 grain per hour per ft<sup>2</sup> per inch Hg pressure differential. Polyethylene material that is not cross laminated which is used to meet the requirements of this paragraph must be designed to have a minimum thickness of four mills.

Subp. 3. **Wind wash.** Section 201 of the Model Energy Code is amended by adding a new definition to read:

**WIND WASH.** Wind wash is the passage of unconditioned air through thermal insulation of the building envelope.

Subp. 4. **Window area.** Section 201 of the Model Energy Code is amended by adding a new definition to read:

**WINDOW AREA.** Window area, or glazing area, is either the area of glazing and sash, or the area used by the manufacturer to determine the window thermal transmittance.

## 7670.0400 AMENDMENT TO ~~302.1~~ SECTION 302: FOOTNOTE 1 DESIGN CONDITIONS.

On page 12 of the code, Footnote 1 to of section 302.1 of the Model Energy Code is amended to read:

'The outdoor exterior design temperature shall must be selected from the columns of 99 percent values for winter and one percent values for summer from tables in Standard RS-1 "Design Conditions" columns shown in Table 302.1.

**EXCEPTION:** Where necessary to assure the prevention of damage to the building or to material and equipment within the building, the values listed in Table 302.1 under "extreme conditions" may be used.

TABLE 302.1 Exterior Design Temperatures

CITY	DESIGN CONDITIONS		EXTREME CONDITIONS	
	SUMMER DB/WB	WINTER DB	SUMMER DB/WB	WINTER DB
Albert Lea	87/72	-17	90/74	
Alexandria	88/72	-22	90/72	-28.0
Bemidji	85/69	-31	88/69	-36.9
Brainerd	87/71	-20	90/73	
Duluth	82/68	-21	85/70	-27.4
Faribault	88/72	-17	91/74	-24.3
Fergus Falls	88/72	-21	91/72	-27.8
International Falls	83/68	-29	85/68	-36.5
Mankato	88/72	-17	91/72	
Minneapolis	89/73	-16	92/75	-22.0
Rochester	87/72	-17	90/74	
St. Cloud	88/72	-15	91/74	
St. Paul	89/73	-16	92/75	-22.0
Virginia	83/68	-25	85/69	-33.0
Willmar	88/72	-15	91/74	-24.3
Winona	88/73	-14	91/75	

"DB" = dry bulb temperature, degrees Fahrenheit

"WB" = wet bulb temperature, degrees Fahrenheit

Heating degree days heating shall must be selected from Standard RS-22 RS-23 listed in chapter 7. Adjustments may be made as determined by the building official to reflect local climates which differ from the tabulated temperatures or local weather experience as determined by the building official.

## 7670.0450 AMENDMENT TO SECTION 303: VENTILATION.

Section 303.1 of the Model Energy Code is amended to read:

303.1 Ventilation. Ventilation systems must be designed to conform with Standard RS-3 listed in chapter 7.

**7670.0470 AMENDMENT TO SECTION 502: ENVELOPE THERMAL TRANSMITTANCE.**

Subpart 1. Section 502.2.1 of the Model Energy Code is amended by adding a paragraph to read:

502.1.4 Thermal transmittance of opaque wall components and roof/ceiling components. Thermal transmittance of opaque wall components ( $U_w$ ) and roof/ceiling components ( $U_r$ ) must be calculated using the following methods:

- (1) Wood frame: Parallel heat flow method.
- (2) Masonry blocks with insulation inserts or filled cores and other envelope assemblies containing nonmetal framing: Series-parallel method.
- (3) Metal framing bonded on one or both sides to a metal skin or covering: Thermal bridges in sheet metal construction method.
- (4) Nonmetal surface with metal framing:
  - (a) For elements identified in Standard RS-24 listed in chapter 7, the parallel path correction factor method.
  - (b) For elements not identified in Standard RS-24 listed in chapter 7, the zone method.

Subp. 2. Section 502.1 of the Model Energy Code is amended by adding a paragraph to read:

502.1.5 Thermal transmittance of window area and skylight elements. Thermal transmittance of window area ( $U_w$ ) and skylight elements ( $U_s$ ) must be determined in accordance with one of the following methods:

- (1) Representative U-values for fenestration products, pages 27.16 to 27.18 of Standard RS-1 listed in chapter 7;
- (2) Standard RS-26 listed in chapter 7;
- (3) Standard RS-27 or RS-28 listed in chapter 7 using design conditions specified in footnote (a) of table 13, chapter 27 of Standard RS-1; or
- (4) Standard RS-29 listed in chapter 7 using design conditions specified in footnote (a) of table 13, chapter 27 of Standard RS-1.

Subp. 3. Section 502.2.1 of the Model Energy Code is amended by adding a new section to read:

502.2.1.7 Alternative compliance. Alternative methods of compliance with sections 502.2.1.1, 502.2.1.2, and 502.2.1.3 for one- and two-family residential buildings.

Minimum performance for Type A-1 (one- and two-family) buildings:

<u>Ceilings</u>	<u>Walls</u>	<u>Floors</u>	<u>Windows</u>	<u>Doors</u>
<u>R-38</u>	<u>R-20<sup>1</sup></u>	<u>R-20<sup>1</sup></u>	<u>Maximum U-0.49<sup>2</sup></u>	<u>R-3</u>

- (1) For the insulated cavity of opaque walls, floors, and rim joists.
- (2) Maximum window area must not exceed 12 percent of the area of exterior walls, not including foundation walls.

Site-built fixed glazing must be installed in either an aluminum or steel frame having a minimum 0.25 inch low conductance thermal break or in wood or vinyl framing. The glazing must be either double-glazed with a dead air space between panes of nominal one-half inch spacing or triple-glazed with a dead air space between panes of not less than one-fourth inch.

**7670.0480 AMENDMENT TO SECTION 502: EFFECTIVENESS OF REQUIRED THERMAL INSULATION.**

Section 502.2 of the Model Energy Code is amended by adding paragraphs to read:

502.2.1.8 Cold weather vapor condensation. Building assemblies are required to maintain the thermal performance of required insulation and the integrity of building materials against cold weather water vapor condensation.

502.2.1.8.1 Vapor retarder. A vapor retarder must be installed between the interior surface and the winter design condition dew point location within each building envelope surface. The vapor retarder must be continuous and joints in the vapor retarder must be sealed between solid blocking.

EXCEPTION: A vapor barrier need not be installed on the rim joist insulation.

502.2.1.8.2 Air leakage barrier. A barrier against air leakage must be installed to prevent the leakage of moisture-laden air from the house into the building envelope. An air barrier must be continuous at all plumbing and heating penetrations of interior surface of the building exterior envelope. If a tub or shower is located on an exterior wall, an air barrier must be provided at the interior surface of the building exterior envelope behind the tub or shower.

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## Proposed Rules

502.2.1.9 Preventing wind wash. A barrier must be provided at the following locations to mitigate wind wash:

A. the exterior edge of attic insulation; and

B. cantilevered floors and bay windows, including corners with adjoining vertical walls above and below.

### **7670.0500 AMENDMENT TO ~~502.2.1.4~~ SECTION 502: SLAB ON GRADE FLOORS.**

On page 19 of the code, Section 502.2.1.4 of the Model Energy Code is amended to read:

502.2.1.4 Slab on grade floors. For slab on grade floors, the thermal resistance of the insulation around the perimeter of the floor must be not less than the value given in Table No. 5-1 502.2.1. The insulation must extend downward from the top of the slab to the design frost line or downward to the bottom of the slab then horizontally beneath the slab for an equivalent distance, and must be an approved type.

### **7670.0510 AMENDMENT TO ~~502.2.1~~ SECTION 502: FOUNDATION WALLS.**

On page 19 Section 502.2.1.6 of the Model Energy Code, 502.2.1 is amended by adding a paragraph to read:

502.2.1.6 Foundation walls. Foundation walls enclosing heated or conditioned spaces must be insulated.

Either the thermal resistance (R) of the insulation on the entire opaque foundation wall must be not less than R-5, or the thermal resistance (R) of the insulation on the opaque foundation wall must be not less than R-10 from the top of the wall down to the design frost line. If the top of the footing is at or above the design frost line, the thermal resistance (R) of the insulation on the wall must not be less than R-5 from the top of the wall to the top of the footing.

All insulation used in or on foundation walls must be approved for the intended use. The insulation must be installed in accordance with the approved manufacturer's specifications.

If the foundation wall insulation is on the exterior, the portion from the top of the foundation wall to six inches below grade must be covered by an approved protective coating finish to protect the insulation from deterioration due to sunlight and physical abuse.

### **7670.0550 AMENDMENT TO ~~502.4.3~~ SECTION 502: AIR LEAKAGE.**

On page 23 of the code, Subpart 1. Alternative. Section 502.4.3 of the Model Energy Code is amended by adding an exception as follows:

502.4.3.1 Exterior joints in the building envelope that are sources of air leakage, such as around window and door frames; between wall cavities and window or door frames; between walls and foundations; between walls and roofs or ceilings and between wall panels; openings at penetrations of utility services through walls, floors, and roofs; and all other similar openings in the building envelope must be caulked, gasketed, or otherwise sealed in an approved manner. A continuous air barrier must be provided at all electrical, mechanical, and plumbing penetrations.

EXCEPTION: As an alternative to the prescriptive requirements of section 502.4.3 for detached single-family residential buildings, air tightness must comply with air leakage class A, B, C, or D of Standard RS-30 listed in chapter 7. In addition, this alternative requires that the ventilation system must provide a ventilation rate of not less than 0.35 air changes per hour (determined in accordance with Standard RS-3, Table 2.3) or 15 cfm per person, whichever is greater. This ventilation rate must be verified by measurement. If this alternative is not chosen, this ventilation rate requirement applies only if required by Standard RS-3.

Subp. 2. Fire stops. Section 502 is amended by adding a section as follows:

502.4.4 Fire stops. Fire stops must be installed in accordance with the State Building Code. When mineral fiber or glass fiber materials are used as fire stop construction at ceilings and wall cavities separating conditioned and nonconditioned spaces, the fire stop must be installed to block air movement.

EXCEPTIONS: A fire stop need not block air movement if its installation would conflict with any other part of the State Building Code.

### **7670.0610 AMENDMENT AMENDMENTS TO ~~503.2~~ SECTION 503: BUILDING MECHANICAL SYSTEMS.**

On page 24 Subpart 1. Calculation procedures. Section 503.2.1 of the Model Energy code, 503.2 is amended by adding a paragraph to read:

503.2.3 System design heating and cooling capacity. The rated capacity of the heating and cooling system at design conditions may not be greater than 115 percent for heating, 100 percent for cooling at design output load calculated in accordance with 503.2, whenever appropriate equipment is available.

Exceptions:

- 1- Equipment designed for standby purposes.
- 2- Cooling capacity of heat pumps.
- 3- Systems designed for pick up after automatic temperature setback when a registered

professional engineer shows that the extra system design heating and cooling capacity is needed for pick up.

503.2.1 Calculation procedures. Heating and cooling system design loads for the purpose of sizing systems and equipment must be determined in accordance with the procedures described in Standard RS-1 listed in chapter 7.

503.2.1.1 Safety factor. Design loads may at the designer's option be increased by as much as ten percent to account for unexpected loads or changes in space usage.

503.2.1.2 Pick-up loads. Transient loads such as warm-up or cool-down loads that occur after off-hour setback or shutoff may be calculated from principles based on the heat capacity of the building and its contents, the degree of setback, and desired recovery time; or may be assumed to be up to 30 percent for heating and ten percent for cooling of the steady-state design loads. The steady-state load may include a safety factor in accordance with section 503.2.1.1.

Subp. 2. System and equipment sizing. Section 503.2 of the Model Energy Code is amended by adding a paragraph to read:

503.2.3 System and equipment sizing. HVAC systems and equipment must be sized to provide no more than the space and system loads calculated in accordance with 503.2.1.

Exceptions:

(a) Equipment capacity may exceed the design load if the equipment selected is the smallest size needed to meet the load within available options of the desired equipment line.

(b) Equipment whose capacity exceeds the design load may be specified if oversizing the equipment can be shown to not increase the overall annual energy costs.

(c) Stand-by equipment may be installed if controls and devices are provided that allow stand-by equipment to operate automatically only when the primary equipment is not operating.

(d) Multiple units of the same equipment type, such as multiple chillers and boilers, with combined capacities exceeding the design load may be specified to operate concurrently only if controls are provided that sequence or otherwise optimally control the operation of each unit based on load.

(e) For a single piece of equipment that has both heating and cooling capability, only one function, either the heating or the cooling, need meet the requirements of this section. Capacity for the other function must be, within available equipment options, the smallest size necessary to meet the load.

**7670.0660 AMENDMENT TO TABLE NO. 5-7 SECTION 503: EQUIPMENT EFFICIENCY.**

Subpart 1. Table No. 503.4.3. Table No. 503.4.3 of the Model Energy Code "HVAC System Heating Equipment - Gas- and Oil-Fired Minimum Steady State Combustion Efficiency" is amended by changing the requirement for forced-air furnaces and low-pressure steam or hot-water boilers for all other commercial or industrial furnaces and boilers to 80 percent.

On page 29 Subp. 2. Table No. 503.4.8. Section 503 of the Model Energy Code, Table No. 5-7 is amended by adding a table to read:

**Table No. 5-7 503.4.8 — Minimum EER and COP for Electrically Driven HVAC System Components Water Source Hydronic**

Component	Type of Compressor	Heat Pumps <sup>1</sup>					
		Air		Condensing Means Water		Evaporative	
		EER	COP	EER	COP	EER	COP
Self-contained water chillers	Centrifugal	8.00	2.34	13.80	4.04		
	Positive displacement	8.40	2.46	12.00	3.51		

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# Proposed Rules

		Heat Pumps <sup>1</sup>					
		Condensing Means					
		Air		Water		Evaporative	
Component	Type of Compressor	EER	COP	EER	COP	EER	COP
Condenserless water chillers	Positive displacement	9.90	2.9	12.00	3.51		
Compressor and condenser units 65,000 Btu/h (19,050 watts) and over <sup>2</sup>	Positive displacement	9.50	2.78	12.50	3.66	12.50	3.66
Water Source Hydronic Heat Pump	Size	under 19 kW (65,000 Btu/h)		19 kW (65,000 Btu/h) and over			
		EER	COP	EER	COP		
	Centrifugal	9.0	2.64	9.4	2.75		
	<u>EER</u>	<u>9.0</u>		<u>9.4</u>			
	<u>COP</u>	<u>2.64</u>		<u>2.75</u>			

<sup>1</sup>When tested at the standard rating conditions specified in Table No. 5-10C 503.4.6a.

<sup>2</sup>Ratings in accordance with Standard RS-14 as applicable. COP based on condensing unit standard rating capacity and energy input to the unit, all at sea level.

Subp. 3. Efficiency requirements. HVAC system heating and cooling equipment regulated by the National Appliance Energy Conservation Act of 1987 must conform to the efficiency requirements of Standard RS-31 listed in chapter 7.

## 7670.0670 AMENDMENT TO ~~503.10.2~~ SECTION 503.10: DUCT CONSTRUCTION.

On page 33 of the code, Section 503.10.2 of the Model Energy Code is amended to read:

503.10.2. For low pressure supply and return air ducts located outside of the conditioned space, all transverse joints must be sealed using mastic, tape, or mastic ~~plus~~ and tape. For fibrous glass ductwork, pressure sensitive tape may be used.

## 7670.0710 ~~DELETION OF 504.5.3~~ AMENDMENTS TO SECTION 504: SERVICE WATER HEATING.

On page 38 Subpart 1. Time clocks. Section 504.5 of the Model Energy Code, 504.5.3 is deleted amended by deleting section 504.5.3.

Subp. 2. Pipe insulation. Section 504.7 of the Model Energy Code is amended by deleting the exception.

Subp. 3. Devices to limit temperature. Section 504.8.2 of the Model Energy Code is amended by deleting section 504.8.2.2.

Subp. 4. Efficiency requirements. Service water heating equipment regulated by the National Appliance Energy Conservation Act of 1987 must conform to the efficiency requirements of Standard RS-31 listed in chapter 7.

## 7670.0800 AMENDMENT OF 505.2 AMENDMENTS TO SECTION 505: ELECTRIC POWER AND LIGHTING.

On page 39 Subpart 1. Electric energy determination. The exception to section 505.2 of the Model Energy Code, 505.2 is amended to read:

~~505.2 Electric energy determination.~~

In any multi tenant residential building, provisions shall be made to separately determine the electric energy consumed by each tenant. Electrical service to individual dwelling units in buildings containing two or more units shall be separately metered, with individual metering readily accessible to the individual occupants.

EXCEPTION: Motels, hotels, college dormitories, other transient facilities, and buildings intended for occupancy primarily by persons who are 62 years of age or older or handicapped, or which contain a majority of units not equipped with complete kitchen facilities.

Subp. 2. Lighting power budget. The lighting requirements of sections 505.3 and 505.4 of the Model Energy Code are amended to read:

The lighting power budget must be the upper limit of the power to provide the lighting needs in accordance with the 1988 and

1989 criteria and calculation procedure specified in Standard RS-32 listed in chapter 7 (excluding section 3.2, referencing equation 3.4-1 in section 3.1.6.2, and correcting the units of Interior Lighting Power Allowance in equation 3.5-3 to Watts), or using Standard RS-33 listed in chapter 7.

EXCEPTION: One- and two-family detached dwellings and the dwelling portion of multifamily buildings.

**7670.0850 AMENDMENT TO SECTION 600: DESIGN BY ACCEPTABLE PRACTICE.**

Section 601.1 of the Model Energy Code is amended by adding a paragraph to read:

Buildings constructed in accordance with this section must also comply with parts 7670.0470 to 7670.0800 as indicated below:

<u>Model Energy Code</u>	<u>Minnesota Rules Part</u>
<u>602.2</u>	<u>7670.0470, 7670.0480</u>
<u>602.2.4</u>	<u>7670.0500</u>
<u>602.2.6</u>	<u>7670.0510</u>
<u>602.3.2</u>	<u>7670.0550</u>
<u>603.1</u>	<u>7670.0610</u>
<u>603.2.1</u>	<u>7670.0660</u>
<u>603.4</u>	<u>7670.0670</u>
<u>604</u>	<u>7670.0710</u>
<u>605</u>	<u>7670.0800</u>

**7670.1000 AMENDMENT AMENDMENTS TO ~~701.1~~ SECTION 701: STANDARDS.**

On page 54 of the code, Section 701.1, Code Standard No. ~~RS-4~~, of the Model Energy Code is amended by replacing and adding the following code standard numbers to read:

A. RS-1, 1989 ASHRAE Handbook of Fundamentals.

B. RS-3, ASHRAE Standard 62-1989, Ventilation for Acceptable Indoor Air Quality.

C. RS-4, ASHRAE Standard 55-1981 Thermal Environment Conditions for Human Occupancy.

D. RS-17 and RS-18, SMACNA HVAC Duct Construction Standards: Metal and Flexible, First Edition, 1985.

E. RS-23, Monthly Normals of Temperature, Precipitation, and Heating and Cooling Degree Days 1951-80 Minnesota, National Oceanic and Atmospheric Administration September 1982.

F. RS-24, Code of Federal Regulations, title 10, part 435.105, section 5.3.3.2.1(b), Calculation procedures for parallel path correction factor method.

G. RS-25, Code of Federal Regulations, title 10, part 435.105, section 5.3.3.2.1(d), Calculation procedures for thermal bridges in Sheet Metal Construction.

H. RS-26, AAMA Standard 1503.1-88, Voluntary Test Method for Thermal Transmittance and Condensation of Windows, Doors and Glazed Wall Sections.

I. RS-27, ASTM C 236-87, Standard Test Method for Steady State Performance of Building Assemblies by means of a Guarded Hot Box.

J. RS-28, ASTM C 976-82, Standard Test Method for Steady State Performance of Building Assemblies by means of a Calibrated Hot Box.

K. RS-29, WINDOW computer program.

L. RS-30, ASHRAE Standard 119-1988, Air Leakage Performance for Detached Single-Family Residential Buildings.

M. RS-31, Code of Federal Regulations, title 10, part 430.32, Energy Conservation Standards.

N. RS-32, Code of Federal Regulations, title 10, part 435.103, lighting.

O. RS-33, LTGSTD, lighting prescriptive and system performance compliance calculation program.

**REPEALER.** Minnesota Rules, parts 7670.0110; 7670.0120; 7670.0200; 7670.0210; 7670.0220; 7670.0300; 7670.0310; 7670.0320; 7670.0330; 7670.0340; 7670.0520; 7670.0540; 7670.0600; 7670.0620; 7670.0630; 7670.0640; 7670.0650; 7670.0700; 7670.0720; 7670.0730; 7670.0900; 7670.0910; 7670.0920; 7670.0930; 7670.0940; 7670.0950; 7670.0960; 7670.0970; 7670.1010; 7670.1020; 7670.1030; 7670.1100; and 7670.1110 are repealed.

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## Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

## Board of Electricity

### Adopted Permanent Rules Relating to Approval of Electrical Equipment

The rule proposed and published at *State Register*, Volume 15, Number 21, pages 1214-1216, November 19, 1990 (15 SR 1214) are adopted as proposed.

## Department of Health

### Adopted Permanent Rules Relating to Public Water Supplies

The rules proposed and published at *State Register*, Volume 15, Number 24, pages 1334-1348, December 10, 1990 (15 SR 1334) are adopted with the following modifications:

#### Rules as Adopted

##### 4720.3957 CHEMICAL ADDITION.

Subp. 6. **Feed lines.** Feed lines must:

E. not carry chlorine gas under pressure beyond the chlorine feeder room; and

##### 4720.3965 DISINFECTION.

Subp. 9. **Housing.** Chlorine gas feed and storage must be:

F. designed so the ejector for mixing chlorine gas and water is located in the chlorine room where chlorine gas under pressure is used.

##### 4720.3970 VARIANCE PROCEDURES AND CRITERIA FOR SURFACE WATER CONSTRUCTION STANDARDS.

The commissioner of health shall grant a variance to parts 4720.3920 to 4720.3965 according to the procedures and criteria in parts 4717.7000 to 4717.7050; ~~as proposed at 15 State Register 985, October 29, 1990, and as later adopted.~~

## Department of Human Services

### Adopted Permanent Rules Relating to General Assistance

The rules proposed and published at *State Register*, Volume 15, Number 12, pages 654-692, September 17, 1990 (15 SR 654) are adopted with the following modifications:

#### Rules as Adopted

##### 9500.1206 PROGRAM DEFINITIONS.

Subp. 12a. ~~Documentation, primary documentation, or alternative documentation.~~ "Documentation" means a written statement or record that substantiates or validates an assertion made by a person or an action taken by a county agency.

A. ~~"Primary documentation" means evidence that independently establishes a fact and is provided by a public or private institution or organization having an official responsibility to establish that fact.~~

B. ~~"Alternative documentation" means evidence, including declaration, that supports the existence of a fact and that is provided by an individual or institution who has no official responsibility to establish that fact.~~

Subp. 12d. **Emancipated minor.** “Emancipated minor” means a person under the age of 18 years who is or has been married, as recognized by Minnesota Statutes, chapter 517; who is on active duty in the uniformed services of the United States; or who has been recognized as being emancipated by a court of competent jurisdiction.

Subp. ~~12e.~~ **Emergency.** “Emergency” means a situation that causes or threatens to cause a lack of a basic need item when there are insufficient resources to provide for that need.

Subp. ~~12f.~~ 12e. **Encumbrance.** “Encumbrance” means a legal claim against real or personal property that is payable upon the sale of that property.

Subp. ~~12g.~~ 12f. **Equity value.** “Equity value” means the amount of equity in real or personal property owned by a person. Equity value is determined by subtracting any outstanding encumbrances from the fair market value of the real or personal property.

Subp. ~~12h.~~ 12g. **Excluded time facility.** “Excluded time facility” means any hospital, sanitarium, nursing home, shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility, or other institution for the hospitalization or care of human beings, as defined in Minnesota Statutes, section 144.50, 144A.01, or 245A.02, subdivision 14; or a maternity home, battered women’s shelter, or correctional facility.

Subp. ~~12i.~~ 12h. **Fair hearing or hearing.** “Fair hearing” or “hearing” means the department evidentiary hearing conducted by an appeals referee to resolve the issues specified in part 9500.1211, subpart 4.

Subp. ~~12j.~~ 12i. **Family.** “Family” has the meaning given it in Minnesota Statutes, section 256D.02, subdivision 5.

Subp. ~~12k.~~ 12j. **Family assistance unit.** “Family assistance unit” means a general assistance unit that consists of one or more members of a family.

Subp. ~~12l.~~ 12k. **Federal Insurance Contribution Act or FICA.** “Federal Insurance Contribution Act” or “FICA” means the federal law under United States Code, title 26, sections 3101 to 3126, that requires withholding or direct payment of income to the federal government.

Subp. 15. **Good cause.** “Good cause” means a reason for taking an action or failing to take an action that is reasonable and justified when viewed in the context of surrounding circumstances including: illness of the person, illness of another family member that requires the applicant’s or recipient’s presence, a family emergency, the inability to obtain transportation or adequate child care, or a conflicting obligation which has been determined by the county agency to be reasonable or justified.

Subp. 16a. **In-kind income.** “In-kind income” means income, benefits, or payments that are provided in a form other than money or liquid assets, and which the applicant or recipient cannot be made available to the individual in those forms legally require to be paid in cash to the applicant or recipient, including goods, produce, services, privileges, or third-party payments made on behalf of a person for whom the income is intended.

Subp. 20. **Medical certification.** “Medical certification” means a statement about a person’s illness, injury, or incapacity that is signed by a licensed physician, licensed consulting psychologist, or licensed psychologist who is qualified through professional training and experience to diagnose or certify the person’s condition. For an incapacity involving a spinal subluxation condition, “medical certification” ~~means~~ includes a statement signed by a licensed physician or a licensed chiropractor who is qualified through professional training and experience to diagnose and certify the condition.

Subp. ~~20a.~~ 20a. **Medical evidence.** “Medical evidence” means records, reports, treatment notes, or other written documentation about a person’s illness, injury, or impairment from a hospital, clinic, treatment facility, detoxification facility, physician, psychologist, nurse, therapist, or other mental health professional. It may also include evidence listed in a copy of the Disability Determination Rationale provided by the Social Security Administration.

Subp. 26a. **Principle Principal wage earner.** “Principle Principal wage earner” means the parent who has earned the greater amount of income in the 24 months preceding the month of application.

Subp. 32. **Suitable employment.** “Suitable employment” means a job within the local labor market that:

C. provides a gross weekly income equal to the federal or state minimum wage applicable to the job for 40 hours per week, or ~~as~~ a monthly income which, after allowable exclusions, deductions, and disregards would exceed the standard of assistance for the assistance unit, whichever is less; and

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

## Adopted Rules

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### 9500.1211 APPLICANT AND RECIPIENT RIGHTS AND COUNTY AGENCY RESPONSIBILITIES TO APPLICANTS AND RECIPIENTS.

Subp. 2. **Right to apply.** A person has the right to apply, including the right to reapply, for general assistance. A county agency shall inform a person who inquires about general financial assistance of the right to apply, shall explain how to apply, and shall mail or hand deliver an application form to the person inquiring about assistance. When a county agency ends assistance, the county agency shall inform the recipient in writing of the right to reapply.

Subp. 7. Right to notice. When a county agency notifies an applicant or recipient of its intention to deny an application or reduce, suspend, or terminate payment, the county agency shall specify in its notice the action it has taken or intends to take, the reason and legal authority for the action, and the right to appeal and request a fair hearing. The notice shall also inform the applicant or recipient of the conditions under which assistance will continue pending the appeal outcome, the responsibility to repay assistance if the appeal is unsuccessful, the right to be reimbursed for reasonable and necessary expenses of attending an appeal hearing, and the right to review county agency records in accordance with subpart 6.

### 9500.1213 APPLICATION REQUIREMENTS.

Subp. 2. **County agency requirements.** A county agency must:

F inquire and determine at the time of initial application if the applicant has an emergency as defined in part 9500.1206, subpart 4e 12d, and if so, determine the person's eligibility for emergency assistance under part 9500.1261; ~~unless the emergency can be resolved through other sources or by promptly processing an application for monthly assistance.~~

### 9500.1215 DOCUMENTING, VERIFYING, AND REVIEWING ELIGIBILITY.

Subp. 2. **Sufficiency of documentation.** An applicant or recipient must provide documentation of the information required under subpart 4, or authorize a county agency to verify it by other means; however, the burden of providing documents for a county agency to use to verify eligibility is upon the applicant or recipient. A county agency shall help an applicant or recipient to obtain documents that the applicant or recipient does not possess and cannot obtain. When an applicant or recipient and the county agency are unable to obtain ~~primary or alternate~~ documents needed to verify information, the county agency may accept an affidavit from an applicant or recipient as sufficient documentation.

### 9500.1219 ASSISTANCE UNIT ELIGIBILITY.

Subp. 4. **Minors.** No child under the age of 18 who is not a member of a family as defined in Minnesota Statutes, section 256D.02, subdivision 5, shall be included in an assistance unit unless:

A. the child is legally emancipated ~~as defined in part 9500.1206, subpart 12d;~~

Subp. 5. **Refusal of suitable employment.** A person is not eligible for general assistance if, without good cause, the applicant refuses a legitimate offer of, or quits, suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving general assistance shall be terminated from the general assistance program and disqualified from general assistance for ~~60 days~~ two months. This subpart applies only to those applicants or recipients who are not exempt from work readiness participation requirements under part 9500.1251.

### 9500.1231 ASSISTANCE STANDARDS.

Subpart 1. **Standard, single individual.** Except as provided in subpart 2, the standard of assistance for a single adult who does not reside with his or her parents; an adult applicant or recipient who resides with his or her parents and those parents have no minor children; or an emancipated minor applicant or recipient ~~defined under part 9500.1206, subpart 12d,~~ is \$203 per month. The standard in this subpart shall be increased by the same percentage as any increase in subpart 4.

### 9500.1237 AMOUNT OF ASSISTANCE PAYMENT.

Subp. 4. **Persons without a verified residence address.** A county agency may make payments to eligible persons without a verified address as specified in items A to G.

B. A county agency must apply this subpart equally to all applicants or recipients who are without a verified residence, except that this subpart must not be applied to persons who are certified as having mental illness, mental retardation or a related condition, or a family assistance unit unless requested in writing by the family assistance unit.

D. A county agency may determine eligibility and provide assistance on a weekly basis as specified in subitems (1) to (4) (5).

(4) ~~Assistance issued~~ Weekly determination of eligibility under this item must not continue beyond the first full calendar month subsequent to the month of application. Beginning with the second full calendar month, assistance may be issued as specified in item C to a recipient who has not verified a residence address but who is a resident of the state as determined by part 9500.1219, subpart 3; ~~as specified by item C.~~

(5) The provisions of this item must not be applied to any assistance unit which receives, or is expected to receive countable income within the month of application or the following month.

Subp. 5. **Initial payments for mandatory participants in the work readiness program.** Initial payments may be made to mandatory participants in the work readiness program as specified in items A to D.

A. The county agency ~~may~~ must choose one of the methods described in subitems (1) and (2) to make initial payments. The county agency must use the method it chooses for all applicants, except that for family assistance units or assistance units of more than one person, the county agency must use the method described in subitem (1).

(1) The county agency may make payments to cover a period of time which begins with the date of application, or the date on which all eligibility factors have been met, whichever is later, and ending on the last day of the month in which a work readiness orientation is scheduled; ~~or~~.

(2) The county agency may prorate an initial payment to cover only the initial certification period which begins on the date of application, or the date on which all eligibility factors have been met, whichever is later, and ending on the date on which all mandatory participants in the assistance unit must attend a scheduled orientation. This initial certification period must not exceed 30 days. If all mandatory participants in an assistance unit attend the scheduled orientation, the county agency must then issue an additional grant of assistance to cover the period beginning the day after the scheduled orientation and ending on the final day of the month. Subsequent grants of assistance must be issued according to part 9500.1237, subpart 1 or 4.

B. The county agency must inform all mandatory participants in the assistance unit that:

(1) each mandatory participant must attend an orientation within 30 days after application; ~~and~~

(2) a mandatory participant who fails, without good cause, to attend the required orientation will lose eligibility for assistance without further notice due to noncompliance with work readiness requirements subject to reinstatement upon a showing of good cause; ~~and~~

(3) a mandatory participant who has been disqualified from work readiness may not be eligible for emergency general assistance during the period of disqualification.

D. The county may make payment under ~~items item A and B~~ to persons without a verified address according to subpart 4 as long as the county agency implements the provision consistently for all applicants and recipients.

#### **9500.1243 BUDGETING.**

Subp. 3. **Recoupment of overpayments.** When a recipient receives an overpayment, the overpayment must be recouped or recovered under the conditions of this part even when the overpayment is due to agency error or to other circumstances outside the person's responsibility or control, according to items A to ~~E~~ D.

D. This subpart shall not be applied to nonfamily assistance units until the MAXIS automated eligibility system is implemented on a statewide basis.

#### **9500.1251 WORK READINESS REQUIREMENT AND EXEMPTIONS.**

Subpart 1. **Work readiness participation required.** To receive a grant of general assistance, an individual must be a registrant with the work readiness program or must be exempt from registration by the county under subpart 2. A "registrant" is an individual, otherwise eligible for assistance, whose exemption status under subpart 2 has been assessed by the county agency and who does not qualify for an exemption, or who has qualified for an exemption and has voluntarily requested to participate in the work readiness program. ~~Individuals~~ An individual who is otherwise exempt under subpart 2, items F and G, ~~but who have not signed who has been requested by the county agency to sign an interim assistance authorization agreement, and who refuses or fails to sign the agreement,~~ shall not be allowed to register for work readiness and therefore cannot receive a grant.

Subp. 2. **Exemption from work readiness.** An applicant or recipient is exempt from work readiness requirements if:

F. The applicant or recipient has an application pending for the social security disability program or the supplemental security income program and the applicant or recipient has, upon the request of the county agency, signed an interim assistance authorization agreement. An applicant or recipient whose previous application for social security benefits was based solely on a condition other than chemical dependency or mental illness who does not ~~appear request~~ a reconsideration of an initial denial by the social security administration is only exempt under this item if the new application is made for social security benefits based on a different disability or a new application is made that alleges new or aggravated symptoms of the original disability.

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## Adopted Rules

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G. The applicant or recipient has appealed the denial of an application for social security disability or SSI benefits or the termination of social security disability benefits or SSI benefits and the appeal is pending. The applicant or recipient must produce medical evidence in support of ~~an appeal~~ a request for reconsideration of a denied denial of an initial application within 60 days of the initial denial ~~or termination~~. An applicant or recipient of general assistance under this item must sign an interim assistance authorization agreement upon the request of the county agency. A county agency shall not approve a new application for a recipient whose general assistance has been terminated for failure to provide medical evidence in support of the appeal of an application denied by social security until such medical evidence is produced.

Q. The applicant or recipient, not otherwise exempt under items A to P, has been assessed by a qualified professional or vocational specialist as not being likely to obtain permanent employment and:

(1) the applicant or recipient has been referred to, and ~~is participating~~ has not refused or failed without good cause to participate in, ~~an~~ any available, accredited remedial or skills training program designed to address barriers to the person's employment; or

(2) the applicant or recipient has been referred to, ~~and has applied for~~, another maintenance benefit for which the applicant or recipient is potentially eligible in accordance with the provisions of part 9500.1254.

### 9500.1259 COUNTY AGENCY RESPONSIBILITIES.

Subpart 1. **Work readiness program.** The county agency must provide a work readiness program for mandatory and voluntary participants according to items A to F.

C. The county agency must prepare an employability development plan for each participant in work readiness. The employability development plan must address the participant's barriers to employment; estimate the length of time it will take for the participant to obtain employment; and specify steps necessary for the participant to overcome any barriers to employment identified in item B. Barriers to employment shall be addressed in the following order:

(5) A participant who has none of the barriers specified in subitems (1) to (3) and who has a work history must participate in a job search program.

The employability development plan may include referral to available training programs and work experience programs designed to prepare the participant for permanent employment or to education and training activities. A participant in a work experience program shall not perform work ordinarily performed by a regular public employee. The employability development plan must address the participant's barriers to employment, and may, in addition, require the participant to engage in job search or other work readiness activities so long as the combination of requirements does not exceed 32 hours per week or place any requirement upon a participant that interferes with employment which the county agency has determined can lead to self-sufficiency.

### 9500.1261 EMERGENCY ASSISTANCE.

Subp. 4. **Payment provisions.** When the county agency has determined that an applicant has an emergency situation and is eligible for emergency general assistance, the county agency must resolve the emergency in the most cost-effective manner. Resolution of the emergency situation in a cost-effective manner shall be governed by items A to H.

G. Emergency grants for shelter, exclusive of moving expenses or deposits, must not exceed an amount equal to four times the assistance unit's monthly assistance standard. For the purposes of this item, the amount of a single individual's monthly assistance standard is the amount specified in part 9500.1231, subpart 1. A county agency may receive state participation for payments in excess of the limits of this item if the county agency has documented that no shelter is available within the limits of this item which is cost effective as governed by items A to C.

## Department of Labor and Industry

### Adopted Permanent Rules Relating to Reimbursement of Supplementary Benefits

The rules proposed and published at *State Register*, Volume 15, Number 22, pages 1260-1263, November 26, 1990 (15 SR 1260) are adopted with the following modifications:

#### Rules as Adopted

#### 5222.0100 DEFINITIONS.

Subp. 3a. **Proposed effective date of offset.** "Proposed effective date of offset" is the date when the statutory requirements have been met and the insurer proposes to take the offset, the employee has been paid \$25,000 in permanent total disability benefits after the date of permanent total disability, and the employee is simultaneously receiving a government benefit as defined in subpart 5 4.

**5222.0300 SCOPE.**

Parts 5222.0100 to ~~5222.1100~~ 5222.1000 apply only if all of the following prerequisites are met:

**5222.0600 DISAPPROVAL BY COMMISSIONER.**

An agreement for a finding of permanent total disability shall be disapproved if any of the following grounds are present:

A. The agreement is incomplete, is inaccurate, or is not in conformity with any provision of parts 5222.0100 to ~~5222.0410~~ 5222.1000. For example, the submission of medical reports which fail to show that the employee is permanently totally disabled on and after the proposed date of the permanent total disability renders an agreement incomplete and inaccurate and not in conformity with the rules. Agreements which are disapproved on any of these grounds may be resubmitted under the procedure authorized in part 5222.0400.

**REPEALER.** *Minnesota Rules*, parts 5222.0100, subparts 5 and 8; ~~and~~ 5222.0400, subpart 3; ~~and~~ 5222.0800, are repealed.

## Department of Labor and Industry

### Adopted Permanent Rules Relating to Targeted Industry Fund; Loggers

The rules proposed and published at *State Register*, Volume 15, Number 24, pages 1349-1352, December 10, 1990 (15 SR 1349) are adopted with the following modifications:

**Rules as Adopted****5222.3007 ESTABLISHMENT OR APPROVAL OF SAFETY PROGRAM.**

Subpart 1. **Safety program required.** The commissioner shall establish or approve a safety program under subpart 2 or 3.

Subp. 2. Establishment. The commissioner may establish a mandatory safety program including any of the following:

- A. safety seminars;
- B. educational publications or video presentations;
- C. on-site consultations; or
- D. testing of safety equipment.

~~Subp. 2.~~ Subp. 3. Approval. The commissioner may approve privately sponsored safety programs or seminars based on the following criteria:

## Pollution Control Agency

### Adopted Permanent Rules Relating to Lead Abatement in Soil

The rules proposed and published at *State Register*, Volume 15, Number 14, pages 825-828, October 1, 1990 (15 SR 825) are adopted with the following modifications:

**Rules as Adopted****4750.0010 APPLICABILITY.**

Parts 4750.0010 to 4750.0050 apply to a ~~property owner~~ any person who is performing ~~or has been ordered to perform~~ abatement of lead in bare soil on residential property ~~and playgrounds~~.

**4750.0015 DEFINITIONS.**

Subp. 4. **Bare soil.** "Bare soil" means an outdoor area ~~of one square foot or more~~ where soil is visible over a continuous area of one square foot or more.

~~Subp. 5. Board of health.~~ "Board of health" has the meaning given in *Minnesota Statutes*, section 145A.02, subdivision 2.

~~Subp. 6.~~ 5. Commissioner. "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## Adopted Rules

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Subp. 7. ~~6.~~ **Hazardous waste.** "Hazardous waste" has the meaning given it in *Minnesota Statutes*, section 115B.02, subdivision 9.

Subp. 8. ~~7.~~ **Person.** "Person" has the meaning given in *Minnesota Statutes*, section 116.06, subdivision 8.

Subp. 8. **Playground.** "Playground" means an open area, including vacant lots, used for outdoor games, recreation, and amusement that may contain swings, seesaws, slides, or other means for children's recreation and play. ~~Playgrounds do not include public parks or public playgrounds.~~

### 4750.0020 BARE SOIL STANDARD.

Bare soil on residential property or on playgrounds ~~for which a board of health is required to conduct an assessment under *Minnesota Statutes*, section 144.874, subdivision 4,~~ must not contain lead in a concentration of 3/100 of one percent (300 parts per million) or more by weight.

### 4750.0030 ABATEMENT METHODS FOR BARE SOIL.

Subpart 1. **Applicability.** The abatement methods prescribed in this part apply to a ~~property owner who has been ordered by a board of health to abate bare soil on residential property or a playground~~ any person conducting abatement of bare soil that has been determined to exceed the bare soil standard established in part 4750.0020.

Subp. 2. **Abatement methods.** A ~~property owner who is required to undertake abatement of bare soil shall implement one of the following abatement methods:~~

A. ~~the bare soil must be rototilled and the resulting area covered with sod or other material that will prevent the bare soil from being exposed;~~

B. ~~if the bare soil contains more than 1,000 parts per million lead, the soil must be removed and replaced with soil that does not contain more than 25 parts per million lead; or~~

C. ~~an alternative abatement method approved under the variance procedure in part 4750.0050. Except as provided in subpart 4, item A, a person who is performing abatement of bare soil may elect either to cover the bare soil to prevent exposure or to remove the soil. Depending on which alternative is selected, the person shall comply with the requirements applicable to the alternative selected.~~

Subp. 3. **Soil cover.** Any person performing abatement of bare soil by covering the soil shall comply with the requirements in items A to C.

A. Living ground cover. If the person intends to cover the bare soil with sod or other living material, the person shall first till and rake the soil before laying the sod or other living material.

B. Impervious cover. If the person intends to cover the bare soil with concrete, asphalt, or other similar material, the person shall compact the soil prior to laying the concrete, asphalt, or other similar material.

C. Other cover material. If the person intends to cover the bare soil with sand, wood chips, or other nonliving, pervious material, no preparation to the bare soil is required prior to application of the sand, wood chips, or other material.

#### Subp. 4. Soil removal.

A. Any person performing abatement of bare soil must remove the soil if the soil contains visible paint chips.

B. Any person performing abatement of bare soil by removing the soil shall either remove the soil from the premises and dispose of it in accordance with part 4750.0035 or bury the soil on the property under clean soil that has been excavated from the premises. In the event the commissioner determines that burial of the bare soil on the premises would threaten the groundwater or cause other environmental damage, the bare soil must be removed from the premises and disposed of in accordance with part 4750.0035.

Subp. 5. **Abatement implementation.** A ~~property owner person~~ who is ~~required to undertake performing~~ abatement of bare soil shall follow the procedures in items A to C ~~when abating soil, regardless of the method selected or required, shall comply with items A to D.~~

C. Soil on steps and walkways must be removed and steps, walkways, and foundations must be hosed off with water at the end of each work day and before replacing soil or new sod each day.

D. During installation of the soil cover, the person performing the abatement must keep the soil moist.

Subp. 4. ~~6.~~ **Abatement priority.** If abatement of bare soil is done at a residential property or a playground in conjunction with other types of lead abatement, the abatement of the bare soil must be done after paint abatement but before interior dust abatement.

Subp. 7. **Abatement area.** In the event data establish that only a portion of the bare soil on a residential property or playground exceeds the bare soil standard, the person performing abatement is only required to abate the bare soil that exceeds the standard.

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## Withdrawn Rules

Subp. 8. Variance. Any alternative abatement procedures to subpart 3 or 4 shall be proposed in a variance request as described in part 4750.0050 and must have agency approval before the alternative abatement procedure can be performed.

### 4750.0035 DISPOSAL OF WASTE MATERIALS FROM ABATEMENT PROJECTS.

Subp. 2. ~~Other leaded debris.~~ The property owner must comply with the requirements of chapter 7045 for other waste material from an abatement project. ~~Other waste material includes both the waste material from the residential property and any waste material, such as solvents, generated as part of the abatement project. Any waste material that is determined to be a hazardous waste must be managed as a hazardous waste.~~ Bare soil. Unless the commissioner determines that bare soil must be managed as a hazardous waste, the person performing the abatement may dispose of bare soil as normal household refuse.

Subp. 3. ~~Bare soil.~~ The property owner must comply with the requirements of chapter 7045 for any bare soil excavated as part of an abatement project. ~~Bare soil that contains lead in such concentration that it is a hazardous waste must be managed as a hazardous waste.~~ Other waste material. All other waste materials generated during abatement of lead contaminated material shall be disposed of according to applicable agency requirements.

### 4750.0040 ABATEMENT CONTRACTOR DUTIES.

If a ~~property owner who is required to undertake abatement of bare soil~~ person hires an abatement contractor to conduct the abatement, the abatement contractor shall comply with the requirements of parts 4750.0030 and 4750.0035.

### 4750.0045 LOCAL ENFORCEMENT.

Nothing in parts 4750.0010 to 4750.0050 shall be construed to restrict the authority of any local governmental body from enforcing applicable laws regulating the amount of lead in material.

### 4750.0050 VARIANCE.

Subpart 1. ~~Procedures.~~ A ~~property owner who is required to undertake~~ person performing abatement of bare soil may apply for a variance from the requirements of part 4750.0030, ~~subpart 2, item A or B 3 or 4,~~ to allow for use of innovative abatement methods. The ~~property owner~~ person shall comply with part 7000.0700 in applying for the variance and the agency shall act upon the variance request according to the procedures of part 7000.0700.

Subp. 2. ~~Burden of proof.~~ The ~~property owner~~ person who applies for a variance has the burden of establishing that the variance should be granted.

Subp. 3. ~~Granting of the variance request.~~ The agency shall grant the variance request if the ~~property owner~~ person establishes that the innovative abatement method will ensure that upon completion of the abatement, no person will come in contact with bare soil that exceeds the bare soil standard in part 4750.0020.

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## Withdrawn Rules

### Pollution Control Agency

#### Notice of Order Withdrawing Rule In the Matter of the Proposed Permanent Rules Relating to Technical Standards and Corrective Action Requirements for Underground Storage Tanks

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency has issued an Order Withdrawing the Proposed Rules Relating to Technical Standards and Corrective Action Requirements for Underground Storage Tanks, *Minnesota Rules* pts. 7150.0010 through 7150.0700. Those rules appeared in the Monday, July 30, 1990, *State Register* (15 S. R. 264). *Minnesota Rules* pts. 7150.0010 through 7150.0350 and pts. 7150.0600 through 7150.0700 as originally noticed are being re-noticed as Proposed Rules Relating to Technical Standards for Underground Storage Tanks, *Minnesota Rules* pts. 7150.0010 through 7150.0500 under the Proposed Rules Chapter in this *State Register*.

Persons having questions about this matter may contact Thomas Clark at the Minnesota Pollution Control Agency, 520 Lafayette Road, Saint Paul, Minnesota 55155, 612/643-3409.

Charles W. Williams  
Commissioner

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## Withdrawn Rules

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### Department of Public Service

#### Energy Division

#### Notice of Withdrawal of Proposed Permanent Rules Relating to Minnesota Energy Code

The proposed permanent rules amending the Minnesota State Building Code regarding heat loss, illumination and climate control, *Minnesota Rules* chapter 7670, as proposed in 15 S.R. 828 (October 1, 1990) are withdrawn on February 4, 1991. This rule is being renoticed in a modified form elsewhere in this edition of the *State Register*.

Dated: 4 February 1991

Kris Sanda, Commissioner

## Commissioners' Orders

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### Department of Natural Resources

#### Commissioner's Order No. 2405: Reserving, Designating and Managing Certain Waters for Their Primary Wildlife Use and Benefit; Superseding Commissioner's Order No. 2359

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* § 97A.101 and other applicable law, I, Rodney W. Sando, Commissioner of Natural Resources, upon proper published notices and public hearings held, hereby prescribe that the following lakes be reserved, designated and managed for their primary wildlife use and benefit, particularly for waterfowl and aquatic furbearers.

##### Section 1. DESIGNATED LAKES.

<u>Lake</u>	<u>County</u>	<u>Location</u>
Perch	Blue Earth	T. 106 N., R. 25, 26 W.
Cottonwood	Blue Earth	T. 106 N., R. 25 W.
Eagle	Blue Earth	T. 108, 109 N., R. 25, 26 W.
Buffalo	Waseca	T. 107 N., R. 24 W.
Rice	Faribault	T. 104 N., R. 27 W.
Bear	Freeborn	T. 101 N., R. 22 W.
Swan	Nicollet	T. 109, 110 N., R. 28, 29 W.
Lower Twin	Freeborn	T. 101 N., R. 22 W.
Heron	Jackson	T. 103, 104 N., R. 36, 37 W.
Pierce	Martin	T. 102 N., R. 31 W.
Geneva	Freeborn	T. 104 N., R. 20, 21 W.
Upper Twin	Freeborn	T. 101, 102 N., R. 22 W.
Pelican	Wright	T. 120, 121 N., R. 24, 25 W.
Patterson	Carver	T. 116 N., R. 25 W.
Goose	Waseca	T. 107 N., R. 22 W.
Rice	Blue Earth	T. 107 N., R. 25 W.
Sanborn	LeSueur	T. 112 N., R. 23 W.
Big Rice	Cass	T. 140, 141 N., R. 26 W.
Sand	Sibley	T. 112 N., R. 29, 30 W.
Ash	Grant	T. 130 N., R. 43, 44 W.

<u>Lake</u>	<u>County</u>	<u>Location</u>
Christina	Douglas, Grant	T. 130 N., R. 40, 41 W.
Rice	Steele, Dodge	T. 107 N., R. 18, 19 W.
Augusta	Cottonwood	T. 106 N., R. 37 W.
Hanska	Brown	T. 108 N., R. 31, 32 W.
Hassel	Swift	T. 122 N., R. 39 W.
Tiger	Carver	T. 115 N., R. 26 W.
North Badger	Murray	T. 105 N., R. 41 W.
South Badger	Murray	T. 105 N., R. 41 W.
Dog	Crow Wing	T. 45 N., R. 29 W.
Onamia	Mille Lacs	T. 42 N., R. 26, 27 W.
Spellman (north and south basins)	Yellow Medicine	T. 114 N., R. 41 W.
White Elk	Aitkin	T. 50 N., R. 26, 27 W.
Maria	Murray	T. 108 N., R. 41 W.

Sec. 2. Commissioner's Order No. 2359 is hereby superseded.

Dated at St. Paul, Minnesota, this 28th day of January, 1991.

Rodney W. Sando, Commissioner  
Department of Natural Resources

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## Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

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### Minnesota Comprehensive Health Association

#### Notice of Meeting of the Member Appeals Committee

**NOTICE IS HEREBY GIVEN** that a meeting of the Member Appeals Committee of the Minnesota Comprehensive Health Association will be held at 1:30 p.m. on Thursday, February 28, 1991, at Blue Cross and Blue Shield of Minnesota, 3535 Blue Cross Road, Eagan, Minnesota.

For additional information please contact Lynn R. Gruber at 683-2150.

### Office of the Ombudsman for Mental Health and Mental Retardation

#### Notice of Meeting

The Ombudsman for Mental Health and Mental Retardation Advisory Committee will hold a general meeting at 9:30 a.m. on Friday, February 22, 1991. The meeting will be held at the Ombudsman Office, Suite 202, Metro Square Building on 7th and Robert Street, St. Paul.

## Official Notices

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### Department of Public Safety

#### State Fire Marshal

#### Notice of Solicitation of Outside Information or Opinions Governing Flammability Standards for Seating Furniture

**NOTICE IS HEREBY GIVEN** that the State Department of Public Safety is seeking information from sources outside the agency in preparing to propose the adoption of rules governing flammability standards for seating furniture. The adoption of these rules is authorized by *Minnesota Statutes*, section 299F.844, which requires the agency to adopt rules necessary for the enforcement of sections 299F.840 to 299F.848.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing to:

State Fire Marshal Division  
285 Bigelow Building  
450 N. Syndicate  
St. Paul, MN 55104

Any written material received by the State Department of Public Safety shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event the rule is adopted.

Dated: 19 February 1991

Ralph E. Church, Commissioner  
Department of Public Safety

### Department of Revenue

#### Appeals and Legal Services Division

#### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Sales and Use Taxation Relating to Lawn, Garden, Arborist, Tree, Bush, and Shrub Services

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Revenue is seeking information or opinions from sources outside the agency in preparing to propose the adoption of a rule governing sales and use tax on lawn, garden, arborist, tree, bush, and shrub services. The adoption of this rule is authorized by *Minnesota Statutes*, section 270.06 which requires the commissioner of revenue to make, publish, and distribute rules for the administration and enforcement of state tax laws.

The Minnesota Department of Revenue requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Terese Koenig Smith  
Department of Revenue  
Appeals and Legal Services Division  
10 Park River Plaza  
Mail Station 2220  
St. Paul, MN 55146-2220

Oral statements will be received during regular business hours over the telephone at (612) 296-1902 extension 128, or (612) 296-1022 and in person at the above address.

All statements of information and opinions shall be accepted until March 18, 1991. Any written material received by the Minnesota Department of Revenue shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event that the rule is adopted.

Dated: 5 February 1991

Terese Koenig Smith  
Attorney

## Board of Veterinary Medicine

### Meeting Notice

The Minnesota Board of Veterinary Medicine will meet at 4:00 p.m., Wednesday, March 20, 1991, in Conference Room A, Colonial Office Building, 2700 University Avenue West, St. Paul.

## Board of Water and Soil Resources

### Meeting Notice

The Board of Water and Soil Resources will hold their regularly scheduled monthly meeting on Wednesday, February 27, 1991. The meeting will be held at the Minnesota Pollution Control Agency Building, Central Board Room-Lower Level, 520 Lafayette Road, St. Paul, Minnesota. The meeting will convene at 9:00 a.m.

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## State Contracts and Advertised Bids

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Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Materials Management Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

## Materials Management Division—Department of Administration:

### Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

**Commodity:** Transformer lighting bases—rebid  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 2pm:** February 21  
**Agency:** Transportation Department  
**Deliver to:** St. Paul  
**Requisition #:** 79000-13851-1

**Commodity:** Door/frames—rebid  
**Contact:** Pamela Anderson 296-1053  
**Bid due date at 4:30pm:** February 21  
**Agency:** Correctional Facility  
**Deliver to:** St. Cloud  
**Requisition #:** 78830-10694-01

**Commodity:** Groundmaster mower  
**Contact:** Mary Jo Bruski 296-3772  
**Bid due date at 2pm:** February 22  
**Agency:** State University  
**Deliver to:** St. Cloud  
**Requisition #:** 26073-22291

**Commodity:** IBM 3090/400E upgrade to 3090/400J  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 2pm:** February 25  
**Agency:** InterTech—Administration Department  
**Deliver to:** St. Paul  
**Requisition #:** 02410-12029

**Commodity:** Welders  
**Contact:** John Bauer 296-2621  
**Bid due date at 4:30pm:** February 25  
**Agency:** Transportation Department  
**Deliver to:** Various  
**Requisition #:** 79382-02185

**Commodity:** Spotlights  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 4:30pm:** February 25  
**Agency:** State University  
**Deliver to:** Moorhead  
**Requisition #:** 26072-02574

## State Contracts and Advertised Bids

**Commodity:** Seal abandoned well  
**Contact:** Pamela Anderson 296-1053  
**Bid due date at 4:30pm:** February 26  
**Agency:** Agriculture Department  
**Deliver to:** St. Paul  
**Requisition #:** 04371-12034

**Commodity:** Radio tower & equipment shelter—rebid  
**Contact:** Pamela Anderson 296-1053  
**Bid due date at 2pm:** February 28  
**Agency:** Transportation Department  
**Deliver to:** Various  
**Requisition #:** 79000-12739

**Commodity:** Electrical work  
**Contact:** Joyce Dehn 297-3830  
**Bid due date at 2pm:** February 28  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price contract

**Commodity:** Pharmaceuticals  
**Contact:** Don Hanson 297-5619  
**Bid due date at 10am:** February 28  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price contract

**Commodity:** Unleaded and regular gasoline and gasohol (retail)  
**Contact:** Dale Meyer 296-3773  
**Bid due date at 2pm:** February 28  
**Agency:** Vets Home  
**Deliver to:** Minneapolis  
**Requisition #:** Price Contract

**Commodity:** Envelope printer rental  
**Contact:** John Bauer 296-2621  
**Bid due date at 4:30pm:** February 25  
**Agency:** State Lottery  
**Deliver to:** Roseville  
**Requisition #:** 99997-00090

**Commodity:** Shelving  
**Contact:** John Bauer 296-2621  
**Bid due date at 4:30pm:** February 27  
**Agency:** State Lottery  
**Deliver to:** Eagan  
**Requisition #:** 99997-00089

**Commodity:** Lateral files  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** February 22  
**Agency:** Employee Relations  
**Deliver to:** St. Paul  
**Requisition #:** 24000-11625

**Commodity:** Engineering copier  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** February 25  
**Agency:** Printcomm Bookstore  
**Deliver to:** St. Paul  
**Requisition #:** 02515-10798

**Commodity:** Herman Miller keyboard trays  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** February 26  
**Agency:** Employee Relations  
**Deliver to:** St. Paul  
**Requisition #:** 24000-11622

**Commodity:** Non-corrosive de-icers  
**Contact:** Dale Meyer 296-3773  
**Bid due date at 2pm:** February 27  
**Agency:** Transportation  
**Deliver to:** Duluth  
**Requisition #:** Price Contract

## Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

**Printing vendors NOTE:** Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

**Commodity:** Household report form, 400M continuous sets, 4 pages, 2-parts, 8½" x 11" plus ½" pinfeed strips left/right, 2-sided, punch and crimp tear strips, negs available  
**Contact:** Printing Buyer's Office  
**Bids are due at 2pm:** February 25  
**Agency:** Human Services Department  
**Deliver to:** St. Paul  
**Requisition #:** 14377

**Commodity:** Undergraduate bulletin, 24M 192-pages + cover, 8⅞" x 10⅞", camera ready, 35 halftones, 4-sided bleed, 4-color over 1-color cover, 5 color seps., perfect bind  
**Contact:** Printing Buyer's Office  
**Bids are due at 2pm:** February 25  
**Agency:** State University  
**Deliver to:** Mankato  
**Requisition #:** 14432

**Commodity:** Statement of need, 300M 36-pages self cover, pages 3-34—22" x 8½", pages 1, 2, 35 & 36—27⅞" x 8½", finished size 8½" x 11", camera ready, 2-sided, 4 inks, canary screen, saddle stitch  
**Contact:** Printing Buyer's Office  
**Bids are due at 2pm:** February 25  
**Agency:** Human Services Department  
**Deliver to:** St. Paul  
**Requisition #:** 14543

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## Professional, Technical & Consulting Contracts

**Commodity:** Official certificate submitted sample, camera-ready, two-sided, 100,000 sets five-part form, carbonless  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** Agriculture Department  
**Deliver to:** Minneapolis  
**Requisition #:** 14556

**Commodity:** Water well record, type to be set, 7,500 sets, carbon interleave, perforating  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** Health Department  
**Deliver to:** Minneapolis  
**Requisition #:** 13380

**Commodity:** Winona State University flyer covers, camera-ready copy, one-sided, 90,000, 8½x11  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** Winona State University  
**Deliver to:** Winona  
**Requisition #:** 14638

**Commodity:** Schedule assignments, type to be set, one-sided, 5,000, four part, carbonless  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** Bureau of Mediation Services  
**Deliver to:** St. Paul  
**Requisition #:** 14595

**Commodity:** State gambling stamp, type to be set, one-sided, 5,000 stamps  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** Gaming Department  
**Deliver to:** Roseville  
**Requisition #:** 14516

**Commodity:** Mail pickup slip, type to be set, one-sided, 5,000 pads, carbonless, perforating  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** Central Stores  
**Deliver to:** St. Paul  
**Requisition #:** 14497

**Commodity:** Continuous data processing forms, carbonless, perforating, 40,000 sets, 1-part  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** Minnesota Community College System  
**Deliver to:** St. Paul  
**Requisition #:** 14651

**Commodity:** Continuous data processing forms, 2-part, 100,000 forms, perforating  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** Minnesota Community College System  
**Deliver to:** St. Paul  
**Requisition #:** 14652

**Commodity:** Letterhead #10 envelope, camera ready copy, one-sided, 50,000  
**Contact:** Printing Buyer's Office  
**Bids are due:** February 22  
**Agency:** PERA  
**Deliver to:** St. Paul  
**Requisition #:** 14673

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## Professional, Technical & Consulting Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

### Minnesota Correctional Facility

#### Red Wing

#### Notice of Availability of Various Medical Services, Instructional and Therapeutic

##### Notice of Availability of Contract for Medical Clinic Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of a medical clinic from 7/1/91 to 6/30/92. This clinic will provide all clinic services as ordered by the medical staff at MCF-Red Wing. Annual cost is limited to \$13,000.00.

##### Notice of Availability of Contract for Psychological Evaluation Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of a licensed psychologist from 7/1/91 to 6/30/92. This person will provide the written psychological evaluation—through testing, interviews, etc., on up to a twice weekly basis for all new admissions to the institution, to re-test selected youth based upon specific staff referral, plus limited staff training in the area of his/her expertise. Payment is \$263.16 per 8 hour day. Annual cost is limited to \$25,000.00.

##### Notice of Availability of Contract for Physician Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of a licensed physician from 7/1/91 to 6/30/92. This person will provide medical services to the clients at MCF-Red Wing. This person will provide 5 hours per week. Annual cost is limited to \$20,000.00.

## Professional, Technical & Consulting Contracts

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### Notice of Availability of Contract for Dental Lab Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of a dental lab from 7/1/91 to 6/30/92. This laboratory will fabricate those dental appliances as prescribed by the dentist at MCF-Red Wing. Annual cost is limited to \$4,500.00.

### Notice of Availability of Contract for Oral Surgical Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of an oral surgeon from 7/1/91 to 6/30/92. The contractor will perform special surgical procedures that cannot be provided at MCF-Red Wing. Annual cost is limited to \$2,000.00.

### Notice of Availability of Contract for Sexual Therapy Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of a sexual therapist from 7/1/91 to 6/30/92. The contractor will provide consultant services to residents for criminal sexual misconduct or identified as having been victims of sexual abuse. Annual cost is limited to \$9,500.00.

### Notice of Availability of Contract for Volunteer Services Coordinator

The program at the Minnesota Correctional Facility-Red Wing requires the services of a volunteer coordinator. Position requires up to 50 hours per week. Responsibilities include the providing of professional volunteer services for juvenile clients at the institution through the recruiting and training of volunteers, plus the development of a coordinated scheduling of the volunteers to augment the on-going programs. Payment is \$2,359.00 per month. Annual cost is limited to \$28,308.00.

### Notice of Availability of Contract for Catholic Chaplain

The program at the Minnesota Correctional Facility-Red Wing requires the services of an ordained Catholic priest from 7/1/91 to 6/30/92. This person will provide weekly Mass and spiritual guidance and counseling for the Catholic students at MCF-Red Wing as requested. This person will provide up to 20 hours per week for 50 weeks at \$11.00 per hour. Annual cost is limited to \$11,000.00.

### Notice of Availability of Contract for Dietetic Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of a licensed dietician from 7/1/91 to 6/30/92. This person will provide professional dietetic consultation, enabling dietetic staff to provide hygienic dietetic services that meet the daily nutritional needs of residents, ensures that special dietary needs are met, and provides palatable, attractive and acceptable meals. The consultant will provide a minimum of 25 hours per month of professional services. Annual cost is limited to \$5,100.00.

For further information on these contracts, contact:

Kenneth Williams, Assistant Superintendent  
Minnesota Correctional Facility-Red Wing  
1079 Highway 292  
Red Wing, Minnesota 55066  
Telephone: (612) 388-7154

Final submission date for these contracts is: May 1, 1991.

### Notice of Availability of Contract for Certified Driver Education Instructor Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of a certified driver education instructor from 7/1/91 to 6/30/92. This position requires up to 48 hours per month of instruction. Responsibilities include classroom and behind-the-wheel instruction, testing and recordkeeping. The instructor shall provide a safety certified driver education car. The instructor would also be required to provide special instruction to students on a special need basis. Hours of instruction will be coordinated with general school schedules. Payment is \$13.00/hour. Annual cost would be limited to \$7,500.00.

### Notice of Availability of Contract for Speech Therapist Services

The program at the Minnesota Correctional Facility-Red Wing requires the services of a speech therapist from 7/1/91 to 6/30/92. The contractor will provide the needed therapy for clients with special or severe speech problems at MCF-Red Wing. Annual cost is limited to \$3,120.00.

For further information on this contract contact:

John Odden, Director of Education  
Minnesota Correctional Facility-Red Wing  
1079 Highway 292  
Red Wing, Minnesota 55066  
Telephone: (612) 388-7154

Final submission date for this contract is May 1, 1991.

## Minnesota Higher Education Coordinating Board

### Notice of Request for Proposals for Auditing Services

The Minnesota Higher Education Coordinating Board (MHECB) is requesting proposals from auditing firms to perform an audit of its student loan programs and financial statements for the fiscal periods ending June 30, 1991, 1992, 1993 and 1994.

This request for proposal does not obligate the MHECB to complete the contract and the MHECB reserves the right to cancel the solicitation if it is considered to be in its best interest.

It is estimated that the total cost of the audit should not exceed \$25,000 per fiscal year.

Those interested in receiving requests for proposals should contact:

Arlon J. Haupt  
Director of Administrative Services  
400 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101  
(612) 296-9685

Proposals will be accepted until 4:00 p.m., March 29, 1991.

## Minnesota Historical Society

### Request for Bids for Printing, Binding and Delivery of the Society's 1991 Spring/Summer Catalog of Publications

The Minnesota Historical Society is seeking bids for the printing, binding and delivery of its 1991 Spring/Summer catalog of publications pursuant to specifications dated February 11, 1991.

#### Society Contacts

Prospective responders who have questions regarding this solicitation or who wish to obtain a copy of the specifications may call or write: Gary W. Goldsmith (612) 296-2155 or Nordis Heyerdahl-Fowler (612) 296-7539, Minnesota Historical Society, 690 Cedar Street, St. Paul, Minnesota 55101.

#### Submission of Bids

All bids must be sent or delivered to: Contracting Officer, Minnesota Historical Society, 690 Cedar Street, St. Paul, Minnesota 55101.

All bids must be received no later than 4:00 p.m. March 1, 1991. Late bids will not be considered.

This Request for Bids does not obligate the Society to complete the project, and the Society reserves the right to cancel or amend this solicitation if it is considered to be in the Society's best interest.

The Minnesota Historical Society reserves the right to accept any bid or to reject all bids and to waive any informalities therein. No bids may be withdrawn within thirty (30) days after the scheduled closing time for the receipt of bids.

## State Grants

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In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

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## Department of Human Services

### Chemical Dependency Program Division

### Notice of Intent to Identify the Need for Competitive Bid Process on Existing Grants

The Chemical Dependency Program Division (CDPD) of the Department of Human Services is considering the continuation of two

## State Grants

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grant awards to Perspectives, Inc. and The University of Minnesota in the area of women's chemical health issues.

The CDPD will open these grants to competitive selection if requested to do so by a qualified potential vendor. The potential vendor must demonstrate its capability to deliver an equal or superior service at a comparable cost.

Potential vendors should submit a letter outlining their qualifications to provide the services described to Pamela Young, Chemical Dependency Program Division, 444 Lafayette Road, St. Paul, MN, 55155-3823 no later than the close of business (4:20 p.m.) March 11, 1991. Applicants should indicate their interest in the specific grant.

The first grant is to Perspectives, Inc. for approximately \$40,000. The purpose of the grant with Perspectives is to increase the probability of a successful reentry into society for chemically dependent inmates at the Minnesota Women's Correctional Facility by providing recovering women as positive role models during and after incarceration (successful is defined as having no other felony charges). Activities include recruiting and training new volunteers and matching them with chemically dependent inmates; orienting new inmates; interviewing each applicant and facilitating monthly meetings; providing inservice meetings on chemical dependency, domestic abuse, boundary issues, and multi-cultural issues. Also vendors would increase awareness of community resources to inmates, volunteers, and correctional staff. The vendor will maintain a recordkeeping system on grant-related activity.

The second grant is to the University of Minnesota for approximately \$30,000. The purpose of the grant is to provide a continuing education conference entitled "The Minnesota Institute for Chemical Health", for a minimum of 200 participants. The conference will run approximately three days and will identify and showcase ways that services for women with chemical use problems can be created or strengthened based on findings related to research on women's developmental stages, learning styles, and life situations. The conference will also provide opportunities to create strategies and options for changing or improving programs and services for women with chemical use problems. Activities include assisting the CDPD in establishing a planning committee, identifying major themes for the conference, identifying topics and guest speakers, developing strategies to address concerns and issues, and to increase participation by women from communities of color. The vendor will create a publicity plan for the conference, host and conduct the 1991 conference by December 31, 1991, and provide an evaluation of the program and the planning process by synthesizing feedback from the program participants in order to make recommendations for future program offerings on women's chemical health issues. A recordkeeping system will be maintained by the vendor on grant related activity.

## Pollution Control Agency

### Public Facilities Authority

### Applications Accepted for the Individual On-site Wastewater Treatment Systems Grants Program, a Set-aside of the Independent State Grants Program for Construction of Individual On-site Wastewater Treatment Systems

**NOTICE IS HEREBY GIVEN** that the Minnesota Public Facilities Authority (PFA) is accepting applications for the Individual On-site Wastewater Treatment Systems Grants Program, a set-aside of the Independent State Grants Program for construction of individual on-site wastewater treatment systems. This program was created to provide grants to municipalities to assist owners of individual on-site wastewater treatment systems to upgrade or replace their failed individual on-site wastewater treatment systems. (*Minnesota Statutes* Sec. 116.18, subd. 3c (1990)). The Minnesota Pollution Control Agency (MPCA) will perform the necessary review for certification to the PFA for the award of the grants.

MPCA program requirements (*Minnesota Rules* parts 7077.0700 to 7077.0765) including eligibility requirements were published in the July 30, 1990 *State Register* (15 S.R. 288). Copies of the administrative rules are also available from the MPCA or the PFA.

Applications will be accepted for a period of time ending at 4:30 p.m. June 18, 1991.

For additional information or an application packet, please contact:

Vicky Cook  
Non-point Source Section  
Water Quality Division  
Minnesota Pollution Control Agency  
520 Lafayette Rd.  
St. Paul, Minnesota 55155  
(612) 296-7248

Milan Thoreson  
Public Facilities Authority  
Minnesota Department of Trade and Economic Development  
900 American Center Building  
150 East Kellogg Blvd.  
St. Paul, Minnesota 55101-1421  
(612) 297-1982

# Announcements

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**Public Opinions Sought at DNR Wildlife Meetings:** The public will have opportunities to share opinions at a series of wildlife public input meetings planned by the Department of Natural Resources (DNR) in March throughout Minnesota. The meetings provide an important opportunity for members of the public to express their ideas on hunting and trapping regulations and other wildlife-related issues. They also offer the DNR an opportunity to answer questions and explain the rationale for management decisions. The meetings are open for discussion of a wide range of topics, but the DNR's Wildlife Section will also be presenting proposals for changes in regulations that may be added this fall. Many of those proposals are a result of responses to previous requests for ideas from the public. The main proposals being considered for 1991, which will be discussed at the meetings, would: • prohibit baiting as a deer hunting technique; • establish north and south zones for waterfowl hunting with a split season in the south zone; • change the pheasant limit to allow six birds in possession, with a daily limit of either two or three; • authorize bonus bowhunting licenses in undersubscribed firearms permit areas; • change or simplify some deer permit area boundaries; • extend the area open for December bowhunting northward into portions of east-central and central Minnesota; • continue the fall turkey hunt, with a possible expansion; • open water trapping seasons on Oct. 26 in the north and Nov. 2 in the south zones; • expand muzzleloader hunting opportunities; • add additional migratory waterfowl feeding and resting areas where motorized boats are restricted during open seasons. A list of proposed new areas will be announced before the March meetings. Final decisions on these or other proposed regulation changes will not be made until summer. Any pending legislation that is pertinent to wildlife issues may also be discussed at the meetings. All meetings will begin at 7 p.m. The dates and locations of the wildlife public input meetings are: **March 5**, Staples, Staples Technical College, Assembly Hall; **March 7**, Austin, Austin Technical College, Room A120B, 1900 N.W. Eighth Ave.; **March 12**, Moorhead, Moorhead Center Hall, Council Chambers, 500 Center Ave.; **March 14**, Grand Rapids, Itasca Community College, Wilson Hall, Room 137; **March 19**, Windom, Windom High School, Lecture Hall, Room 128; **March 21**, Chaska, Chaska Middle School, Commons Room Engler Boulevard off Highway 41.

**DNR Tree Planting Stock:** Orders for tree seedlings to be planted in Minnesota (except for 15 southeastern Minnesota counties) must be placed by March 20, according to the Department of Natural Resources (DNR). Trees had to be ordered by Feb. 15 for planting in the southeastern Minnesota counties of Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Martin, Mower, Olmsted, Rice, Steele, Wabasha, Waseca and Winona. The minimum order is 500 trees. Tree seedlings that are still available for planting (except in southeastern Minnesota) are: CONIFERS—white spruce, Norway (red) pine, white cedar; HARDWOODS/SHRUBS—red oak, white oak, green ash, ginnala maple, caragana, wild plum. Prices for seedlings are: **Conifers:** \$85/1000, \$45/500, \$12/100; **Deciduous:** \$150/1000, \$78/500, \$20/100. Also available is four-season wildlife food planting stock offered in packets of 500 seedlings for \$150. The packets feature a mixture of crabapple, wild plum, ginnala maple, junberry, dogwood, chokecherry, cotoneaster, hawthorn and Nanking cherry seedlings. They are designed to provide food and cover for a variety of wildlife. Order forms and price lists for the seedlings and wildlife food packets may be obtained from DNR Forestry offices; ASCS offices; SCS offices; County Extension Service offices; the DNR General Andrews Nursery, P.O. Box 95NC, Willow River, MN 55795, (218) 372-3183; or the DNR Forestry Division, 500 Lafayette Road, St. Paul, MN 55155-4044, (612) 296-4480.

**Woodland Owners and Users Conference:** Interested in landscaping property for wildlife? This is just one of the many topics that will be covered at the eighth Woodland Owners and Users Conference on March 2, at Bethel College in St. Paul. Conference attendees will be able to select and participate in five of fourteen concurrent sessions. Instructors are experienced professional forest and wildlife managers. The topics they will be discussing include landscaping for wildlife, management planning, backyard and urban tree care, tree identification, Minnesota's native woods, management practices that minimize nonpoint source pollution, successful tree planting, wetland wildlife management, dealing with drought, insects and disease, timber stand improvement, controlling weeds and brush, managing oak, and harvesting and marketing timber. The conference will begin at 8:45 a.m. and end at 3:30 p.m. Registration fees are \$15 per person through Feb. 22. After this date, the cost will be \$20 per person. Payment will be accepted at the door. Checks made payable to the Minnesota DNR can be sent to DNR Forestry, 1200 Warner Road, St. Paul, MN 55106. Minnesota Extension Service offices and DNR Forestry offices have registration materials. Each conference participant will receive a summary of speaker presentations, access to exhibits and concurrent sessions, a full buffet lunch and refreshments. The conference is sponsored by the Minnesota DNR, the University of Minnesota's College of Forestry and Minnesota Extension Service, and the Minnesota Forestry Association.

**Arts Board Program Deadlines:** Deadlines are approaching for several Arts Board programs. Individual artists and arts organizations should request application forms as soon as possible for the following spring deadlines: **March 1**—Folk Artists Directory, **March 1**—Series Presenters Grants, **March 1**—Career Opportunity Grants. For information and application forms, contact the Minnesota State Arts Board, 432 Summit Avenue, Saint Paul, MN 55102, (612) 297-2603, or toll-free from greater Minnesota (800) 652-9747. • The next regular meeting of the Minnesota State Arts Board will take place at 12:00 noon on Thursday, February 21, 1991 at the Arts Board offices, 432 Summit Avenue in Saint Paul. The public is invited to attend. Open meeting law guidelines will be in effect. Agenda items will include the selection of Folk Arts Sponsorship and Artist Assistance Music and Dance Fellowship grantees. For information on this meeting or other programs, contact the Arts Board, 432 Summit Avenue, Saint Paul, MN 55102, (612) 297-2603 or toll-free from greater Minnesota at (800) 652-9747. Because the Arts Board is located in an historic building, handicap access to the building is limited. Anyone who may have difficulty attending because of a disability should contact Gail Swaim to make arrangements to attend.

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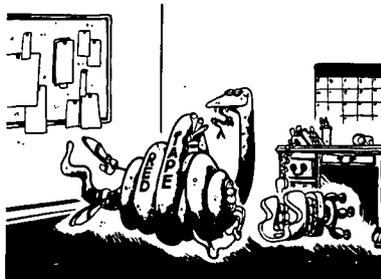
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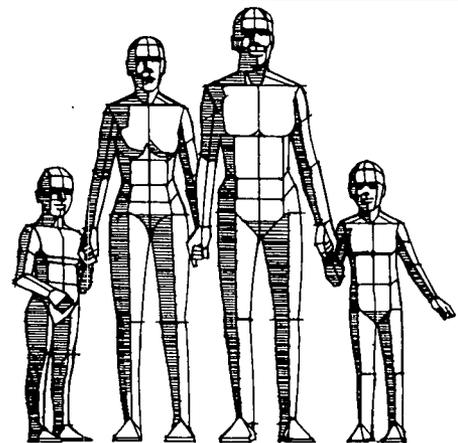
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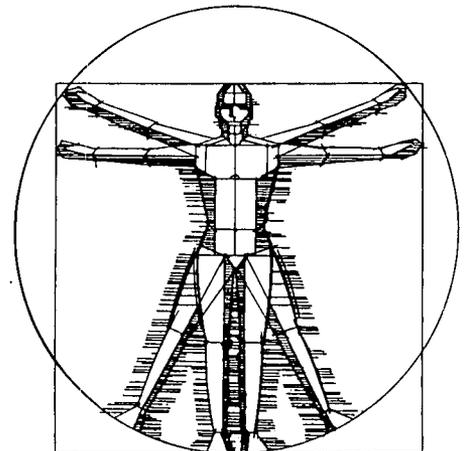
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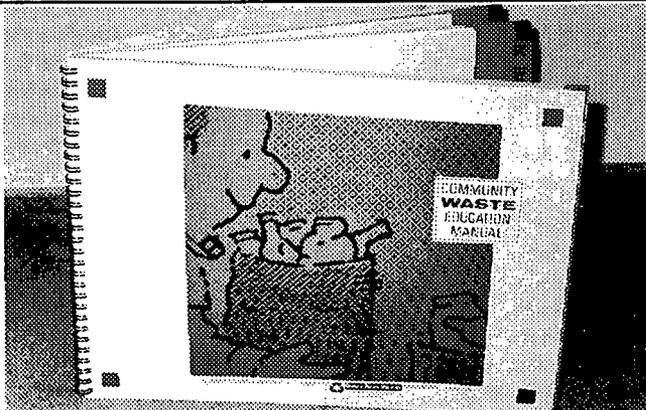
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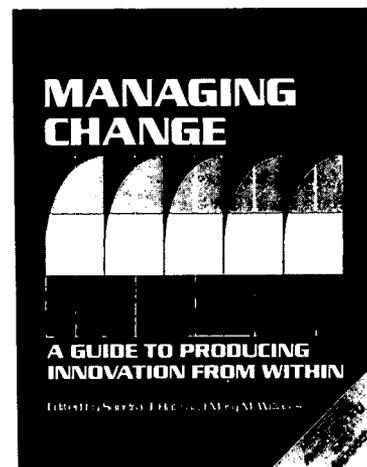
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**Process Parenting—Breaking the Addictive Cycle.** A training manual that provides parent education and treatment techniques for professionals who work with recovering chemically dependent parents or dysfunctional families. Stock No. 5-4, \$15.00 plus tax.

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